

**CONTRACT BETWEEN**

**BUREAU OF LAND MANAGEMENT  
SERVICE CENTER  
DENVER, COLORADO**

**and**

**NATIONAL FEDERATION OF FEDERAL EMPLOYEES  
LOCAL 1945**

**JUNE, 1994 to JUNE, 1997**

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## **PREAMBLE**

**This Agreement is entered into under the authority granted by the Civil Service Reform Act of 1978, Title 5, United States Code, Chapter 71, regarding Federal labor-management relations. This agreement is entered into pursuant to the Certification of Representative, dated December 18, 1981.**

**This Agreement is between the United States Department of the Interior, Bureau of Land Management, Service Center (SC), hereinafter referred to as the Employer and the National Federation of Federal Employees, Local 1945, hereinafter referred to as the Union or Local representing the Employees in the unit described in the next articles, hereinafter referred to as Employee or the Employees.**

**It is the intent and purpose of the parties to improve Employee performance and the efficient accomplishment of the operation of the Bureau of Land Management (BLM) by establishment of a basic understanding relative to the personnel policies, practices, procedures, and matters affecting general conditions of employment.**

**This Agreement is intended to foster a work place where all Employees are treated fairly and equitably, with dignity and respect, without discrimination and prejudice and in a safe and healthy environment.**

## **ARTICLE 1**

### **RECOGNITION AND UNIT DETERMINATION**

#### **1.1 RECOGNITION.**

- a. The Employer recognizes that the Union, NFFE Local 1945, is the exclusive representative of all Employees in the bargaining unit as defined in this article.
- b. The Union is entitled to act for and to negotiate agreements covering all Employees in the bargaining unit. The Union shall be given the right to be represented at formal discussions between management and Employees covering grievances, personnel policies and practices or other matters affecting general working conditions of the Employees in the bargaining unit.
- c. Parties to this agreement will meet to discuss matters of concern.

#### **1.2 COVERAGE AND EXCLUSIONS.**

- a. The recognized bargaining unit includes all nonprofessional General Schedule (GS) and Wage Grade (WG), full-time and part-time, Employees of the Service Center.
- b. Excluded from the bargaining unit are the following:
  - any management official or supervisor
  - Employees with one-time temporary appointments of six months or less
  - a confidential Employee
  - Employees engaged in personnel work in other than a clerical capacity
  - an Employee engaged in administering the provisions of 5 USC 7112
  - professional Employees

- any Employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security
- Employees primarily engaged in investigation or audit functions related to the work of individuals employed by the Employer 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.

## ARTICLE 2

### MANAGEMENT RIGHTS

#### 2.1 LAW.

In the administration of all matters covered by this agreement, the parties and the Employees are governed by existing or future laws.

#### 2.2 RIGHTS RETAINED.

In accordance with the Federal Service Labor-Management Relations Statute, hereinafter referred to as the Statute, 5 USC 7106, the Employer retains the right:

- a. to determine the mission, budget, organization, number of Employees, and internal security practices of the SC; and
- b. in accordance with applicable laws:
  - (1) to hire, assign, direct, layoff, and retain Employees, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against Employees;
  - (2) to assign work, to make determinations with respect to contracting out, and to determine the personnel by which the Employer's operations shall be conducted;
  - (3) with respect to filling positions, to make selections for appointments from among properly ranked and certified candidates for promotion, or from any other appropriate source available under law or regulations.
  - (4) to take whatever actions may be necessary to carry out the SC mission during emergencies;

**2.3 ITEMS FOR NEGOTIATION**

**Nothing in this article shall preclude the Employer and the Union from negotiating:**

- a. procedures which management officials of the Employer will observe in exercising any authority under this article; or**
- b. appropriate arrangements for Employees adversely affected by the exercise of any authority under this article by such management officials.**

## **ARTICLE 3**

### **UNION RIGHTS**

#### **3.1 RECOGNITION.**

- a. The Union, NFFE Local 1945, is the exclusive representative of the Employees in the bargaining unit and is entitled to act for these Employees and to negotiate agreements.
- b. The Union agrees to notify the Employer when an NFFE official plans to visit the BLM Service Center.

#### **3.2 REPRESENTATION.**

- a. The Employer agrees, upon request, to meet with the Union and negotiate with the Union on any proposed new policy or proposed change in established policy or past practice affecting conditions of employment or adversely affecting the Employees prior to implementation. When EEO Settlements affect conditions of employment of bargaining unit Employees, the Union will be notified and afforded the opportunity to bargain on implementation and impact.
- b. The Union will be given the opportunity to be represented at any formal discussion between one or more representatives of the Employer and one or more Employees concerning any grievance or personnel policy or practice or other general condition of employment. The Employer will notify the Union as soon as possible before such discussions are held. If the Union desires to have a representative at the discussion, the Employer will accommodate such a request.
- c. If, during the course of an examination of an Employee by a representative of the Employer, the Employee reasonably believes that the examination could result in disciplinary action against that Employee, and the Employee requests representation by the Union, the Employer will either
  - (1) terminate or suspend the meeting to allow the Employee to arrange for representation;
  - (2) discontinue the interview; or
  - (3) offer the Employee a choice to continue the interview without representation or have no interview.

The Employee will be allowed a reasonable period of time to provide a representative, if he/she so chooses.

- d. The Union shall have the right to submit the views of the Union directly to the Director of the BLM, Secretary of the Interior and other officials of the Executive Branch of the Government, the Congress, or other appropriate authorities.

### **3.3 RESPONSIBILITIES.**

- a. Internal Union business, such as soliciting membership, collecting dues, writing newsletters, campaigning and electing officers, posting and distributing literature will be accomplished during non-duty hours. Union meetings will be conducted during lunch times, before and after work and on non-duty hours of the Employees involved. The Employer will provide the Union with a non-duty area, a table and an easel for membership drives.
- b. The Union shall be granted the authority to conduct membership drives of up to fifteen (15) days in duration per year, subject to security limitations.

### **3.4 USE OF OFFICIAL TIME FOR LABOR MANAGEMENT RELATIONS.**

- a. Employees will be allowed a reasonable length of official time to discuss with a Union representative the allegations of a potential problem or complaint.
- b. Union representatives shall be permitted reasonable time during working hours without loss of leave or pay to represent Employees in accordance with this agreement. The Union agrees to conduct its contract administration duties in a manner to incur the least cost to the Government while meeting the representational needs of the Employees. If travel is required to represent employees, the Union will submit a written request to management explaining the situation, the reason the matter cannot be handled from the Service Center and request travel and per diem.

### **3.5 UNION APPOINTMENTS.**

- a. The Union has the right to designate bargaining unit representatives. The Union will furnish the Employer, in writing, a list of the Union representatives, with their telephone numbers. Any changes and/or reassignments will be forwarded to the Employer, as soon as possible. The Union will post the list or any changes on official bulletin boards.



- b. Nothing in this article waives or limits the right of the Union to determine the number of representatives the Union may have for the purposes of administering this Agreement. As stated in Article 31, Paragraph .4, for the purposes of official time, management will recognize thirteen (13) representatives designated by the Union.
- c. Representatives of Local 1945 are authorized to perform duties properly assigned to them by the Local. The President of Local 1945 or his/her designee, will determine the appropriate assignment of Union representatives.

### **3.6 FORMAL DISCUSSIONS.**

- a. The Union President or designee will be given reasonable notice of, and provided reasonable time to be present at formal discussions concerning any grievance, personnel policy or practice, or other general condition of employment.
- b. The Union will be given a copy of any written agenda developed for any formal discussion concerning any personnel policy or practice, or other general condition of employment.
- c. The Union shall have the opportunity to ask questions and participate in any formal meeting.
- d. The Union will be given the opportunity to respond as necessary in any formal meeting.

### **3.7 TRAVEL AND PER DIEM.**

If travel is approved in accordance with Article 3, paragraph 3.4(b), travel and per diem will be paid in accordance with the provisions of GSA Joint Travel Regulations.

### **3.8 UNION WORKING RELATIONS.**

The Parties, especially Union representatives and first-line supervisors, are encouraged to meet as necessary to informally discuss and attempt resolution of matters of mutual concern including, but not limited to, Employees' concerns or dissatisfactions and problems concerning administration of this agreement.

**3.9     NONABRIDGEMENT CLAUSE.**

Except where explicitly noted in this agreement, the provisions of this Agreement shall not nullify or abridge the rights of Employees or the Union to grieve or appeal the exercise of Management rights set forth in this Agreement through appropriate channels.

**3.10   RESTRAINT.**

There shall be no restraint, coercion, or discrimination against any Union official because of the performance of official union duties or for filing a complaint or acting as a witness under this Agreement, the law, or applicable regulations.

## **ARTICLE 4**

### **EMPLOYEE RIGHTS**

#### **4.1 RESPECT IN THE WORKPLACE.**

- a. The Employer intends to treat all Employees fairly and equitably. Every Employee will be treated with common courtesy and consideration.
- b. Management will not take reprisal actions against Employees for the exercise of any appeal right granted by law, rule, regulation, or this Agreement.

#### **4.2 COMPLIANCE WITH LAWS, RULES, REGULATIONS AND AGREEMENT.**

- a. Laws, rules, regulations, and the provisions of this Agreement will be enforced by Management, and Employees will be expected to comply with them. Management will ensure that Employees are informed of applicable laws, rules, regulations, or the provisions of this agreement which affect them.
- b. In the administration of this Agreement, the parties and Employees are governed by existing or future laws, agency-wide regulations and existing or future negotiated supplements and agreements.
- c. Rules, regulations, manuals and other documents pertaining to conditions of employment, maintained by the Employer, are available to Employees. A reasonable amount of official time may be used to review these regulations.

#### **4.3 RIGHT TO JOIN OR ASSIST UNION.**

Each Employee shall have the right to form, join or assist any labor organization, or refrain from such activity, freely and without fear of penalty or reprisal, and each Employee shall be protected in the exercise of such right. Except as otherwise provided in Chapter 71 of Title 5, USC, such rights include the right to:

- a. To act for the National Federation of Federal Employees in the capacity of a Representative and the right, in that capacity, to present the views of the Union to heads of agencies and other officials of the Executive Branch of Government, the Congress or other appropriate authorities, and

- b. To engage in collective bargaining with respect to conditions of employment through representatives of the Union.

**4.4 RIGHT TO REMEDIAL RELIEF FOR EMPLOYEES IN THE BARGAINING UNIT.**

In seeking remedial relief under this Agreement, the grievant and the duly designated Union representative, if any, shall be free from restraint, interference, coercion, discrimination, and reprisal.

**4.5 WEINGARTEN RIGHT.**

- a. Each Employee has the right to be represented by the Local at any examination of the Employee by a representative of management in connection with an investigation, if:
  - (1) the Employee reasonably believes that the examination may result in disciplinary action against the Employee and,
  - (2) the Employee requests representation.
- b. Employees will be provided, during the month of February, notification of the right to have Union representation at any Management initiated investigation that the Employee feels may result in disciplinary action. In addition, Management will include the annual notification in the Employee orientation package.

**4.6 INFORMAL DISCUSSIONS.**

This Agreement does not prevent any Employee, regardless of Employee organization membership, from bringing matters of personal concern to the attention of appropriate officials in accordance with applicable laws, regulations or Agency policies.

**4.7 OUTSIDE ACTIVITIES.**

- a. Standards of Conduct.

Employees are responsible for complying with the standards of conduct as set forth in 5 CFR 2635.

**b. Outside Employment.**

- (1) Prior to accepting outside employment, the Employee must seek approval from the supervisor. If the supervisor and Employee are uncertain as to whether a conflict of interest exists, the Assistant Ethics Counselor will be contacted for advice.**
- (2) BLM Employees are prohibited from working as real estate agents. However, they may hold a real estate license as long as it is inactive.**

**4.8 CAMPAIGNS OR DRIVES--SOLICITATION OF EMPLOYEES.**

**Employees will be allowed to subscribe to any investment program, to donate to charity, or similar type of activities freely and without coercion.**

**4.9 STUDIES.**

**The Union will be notified of any studies undertaken by Management which affect conditions of employment. The final results of any such study will be shared with the Union, upon completion of the study.**

**4.10 SUPERVISION AND ASSIGNMENT OF WORK.**

**Employees can expect work assignments to be made within reasonable bounds consistent with grade level and position description. Employees will usually receive instructions from and make reports through the immediate supervisor.**

**4.11 WARNING SESSIONS.**

**Employees shall not be given warnings or statements of disapproval, counseled on conduct or unacceptable performance, or given verbal warnings except in a setting that protects confidentiality.**

**4.12 LAWSUITS.**

**Consistent with law and regulation, the Employer will request from the Office of the Solicitor, legal representation for any Employee against whom suit is brought in a civil or criminal court based upon the reasonable execution of official duties. Upon request, the Employer will inform the Employee(s) being sued of current developments regarding the request for representation.**

**4.13 OFFICIAL TIME FOR EMPLOYEES.**

- a. An Employee when consulting with his/her Union representative, while exercising grievance or appellate rights which are established by law, rule, or regulation, will be granted official time.
- b. An Employee using official time will inform his/her supervisor of the approximate time needed and the location where the Employee will be. If the Employee cannot be released immediately due to work-related reasons pertaining to the mandatory short term coverage and/or the critical mission of the functional area, the Employee will be released as soon as the mandatory work requirement is met or appropriate arrangements are made. Ordinary work load will not preclude the release of the Employee. If a delay in releasing an Employee involves a situation with a contractual time limit, the time limit will be extended equal to the delay.

**4.14 REQUIRED MEMBERSHIP AND PARTICIPATION IN PROFESSIONAL ORGANIZATIONS.**

The Employer pays membership dues in professional associations in the name of the Employer. Individual Employees may be designated as the Employer's representative to attend specific meetings of the associations. The Employer will fund travel expenses for representative's attendance at the meetings if the meetings are deemed in the interest of the Service Center and/or within budgetary constraints.

**4.15 WORK PLANS.**

Employees are encouraged to propose and present new innovative ways to carry out their work assignments and streamline work flow within their areas of responsibility. They may submit individual or joint work plans for consideration by the supervisor. If an Employee's plan is rejected, the Employer will inform the Employee, as to why it was rejected.

**4.16 DISABLED/HANDICAPPED WORKERS.**

The parties agree to adhere to statutes, laws, and regulations for the disabled/handicapped.

- a. Employees who are disabled or disabled by on- or off-the-job injuries, and who can no longer meet the physical or medical standards of their positions, may be reassigned to another position.

- b. Employees accommodated by assignment to alternate positions, and the position is a lower graded job, will retain their current level of pay as determined by law and regulations.

#### **4.17 TRAVEL.**

The Employer will consider Employees' personal needs when scheduling travel. The Employer will normally schedule travel during regular work hours unless it is beyond the employer's control.

#### **4.18 PERSONNEL RECORDS.**

- a. Official personnel records will be collected, maintained, and retained in accordance with law and Government-wide regulations.
- b. Employees and/or their authorized representatives, in accordance with 29 CFR 70a, may be granted reasonable amounts of official time, upon approval of the supervisor, to examine any of their personnel records.
- c. All records maintained on an Employee will be removed from official files in accordance with the Government's retention schedule.

#### **4.19 COMPLAINTS.**

- a. An Employee has the right to be represented by the Union at any meeting when the Employee has a complaint concerning conditions of employment.
- b. When exercising the above rights and other rights under the negotiated Agreement, Employees will be granted a reasonable amount of official time.
- c. An Employee may be represented by an attorney or other representative other than the National Federation of Federal Employees, of the Employee's own choosing, in any appeal action not under the negotiated grievance procedure. The Employee may exercise grievance or appellate rights which are established by law, rule, or regulation.
- d. Any data that become part of the Employee's personnel record will be available for review upon request of the Employee.

#### **4.20 EMPLOYEE OFFICE EQUIPMENT.**

Periodically, the Employer will require access to an Employee's computer to conduct software and internal security audits as well as perform regular preventative maintenance. Normally and customarily, Employees will be informed in advance and be allowed to be present when computer equipment assigned to them is accessed by a management representative.

#### **4.21 PERSONAL REASSIGNMENT.**

- a. An Employee may request reassignment at any time. The Employer will consider the request.
- b. When the request is due to conflict with his/her work supervisor and the Employee has tried to resolve the conflict, the Employee may request the assistance and intervention of higher-level Management.



## **ARTICLE 5**

### **POSITION DESCRIPTION AND POSITION CLASSIFICATION**

#### **5.1 POSITION DESCRIPTIONS.**

##### **a. Content and Review.**

Position descriptions shall accurately state the duties, responsibilities and supervisory relationships of positions, and will be reviewed at least annually by the supervisor and the Employee. Each Employee in the bargaining unit will receive a copy of his/her position description.

##### **b. Position Description Changes**

When a new position description has been approved, the supervisor and the Employee will review it and discuss it.

An Employee who believes his/her position description no longer accurately reflects major duties and responsibilities may notify the supervisor, draft a proposed new position description, and present it to the supervisor. If the supervisor concurs with the changes, he/she will forward it to Personnel for approval.

When an Employee has been assigned recurring and significant duties that may affect classification, or qualifications for future job opportunities, the Employee may call it to the supervisor's attention.

Whenever the Employer decides to modify the position description of an Employee of the unit, the Employee will be able to review the change and discuss it with his/her supervisor. The supervisor, however, has the final decision on the content of positions.

If the Employer decides to eliminate or reassign grade controlling duties in a position, the reasons for the change will be discussed with the Employee.

#### **5.2 POSITION CLASSIFICATION.**

##### **a. Audits.**

When the Employer is aware of any position audits, the supervisor of the Employee to be audited and the Employee will be notified. In addition, the Employee will be provided with any information necessary to facilitate the audit.

If a review reveals that there has been an accretion of duties supporting a higher grade, the Employer may either upgrade the position, or remove the higher grade duties and retain the classification.

b. Request for Desk Audit.

Any Employee who thinks that his/her position is inaccurately classified may request, through the immediate supervisor, a review. A review will be conducted to determine correct classification. The findings will be discussed with the Employee and the Union representative, if the Employee so desires.

5.3 APPEALS.

If, after discussing the classification of the Employee's position with the supervisor, the Employee disagrees with the classification of the position, he or she may appeal as follows:

- a. Wage Grade Employees must appeal first to the Bureau or directly to the Department, before appealing to the Office of Personnel Management (OPM).
- b. General Schedule Employees may appeal to the Bureau or the Department, then to the OPM, or may appeal initially to the OPM.

5.4 GRADE AND PAY RETENTION.

Saved grade and saved pay shall be afforded to Employees in downgraded positions when required by law and regulation. In addition, management will give full consideration to cases under its optional authority.

5.5 PERSONNEL MANAGEMENT EVALUATIONS.

The Employer will provide timely notice to the Union of personnel management evaluations by the Agency, the BLM, or the OPM that will involve audits of bargaining unit Employees.

## ARTICLE 6

### MERIT PROMOTION

#### 6.1 GENERAL.

- a. The Employer and the Union agree that promotions and all selections for vacant positions shall be based solely on job-related criteria and without regard to political, religious, or labor organization affiliation or nonaffiliation, marital status, race, color, sex, national origin, nondisqualifying physical handicap, or age.
- b. The Employer retains the right to select or not select from among a group of best qualified candidates. The employer also retains the right to select from other sources, such as reemployment priority lists, reinstatement, transfer, handicapped, or Veterans Readjustment eligibles or those within reach on an appropriate OPM certificate.
- c. Merit promotion procedures will be in compliance with FPM Chapter 335, the Bureau Promotion and Internal Placement Plan (1400-335), and all other appropriate regulations in effect at the time.
- d. Vacancy Announcements
  1. Information of jobs advertised for open competition will be available to Employees and the Union through the Automated Vacancy Announcement Distribution System (AVADS).
  2. This system will be updated weekly. When requested in advance by an Employee, reasonable attempts will be made to inform absent Employees of any vacancy in which the Employee has expressed an interest.
  3. The Employer will post Service Center vacancy announcements in areas where all Employees do not have access to AVADS or are not located in Building 50.

#### 6.2 CAREER OPPORTUNITIES.

To enhance career opportunities, where Management deems it appropriate, the Employer will advertise positions at grades below their full-performance grade level.

### **6.3 INFORMATION.**

All applicants will be informed as to whether they meet basic qualifications and time-in-grade requirements. Qualifications standards (X-118) will be available in the Personnel Office for review by any Employee.

Candidates who were referred to the selecting official but were not selected may request information from the selecting official as to what they can do to improve their chances in future competition.

Upon contacting the Personnel Office, applicants are entitled to the following information: whether they met the basic qualifications requirements for the position, whether their name was referred to the selecting official as one of the best qualified candidates, and the name of the person selected. At least annually, the Personnel Office will issue to all Employees information on how the merit promotion process operates.

Merit promotion files will be maintained a minimum of two years for review to ensure compliance with applicable regulations.

Bureau manual 1400-335, the Promotion and Internal Placement Plan, will be available for review in the Library and in the Personnel Office.

### **6.4 MERIT PROCEDURE.**

Merit promotion panels may be used to determine the best qualified applicants from the group of candidates considered basically qualified. The best qualified candidates, as determined by the panel, will be referred to the selecting official in alphabetical order.

Selections will be made in accordance with rules/regulations.

### **6.5 CANCELED ACTIONS.**

Documentation will be required when a selection is not made for an advertised position, and applicants will be told the specific reasons for a canceled advertisement or an unused roster. The Union will be provided a copy of the notice.

## **6.6 GRIEVANCES.**

Grievances on the merit promotion process are processed through the negotiated grievance procedure. Where it has been established that a merit staffing violation has occurred, the corrective action will be processed in accordance with regulations.

## **6.7 DETAILS.**

### **a. Documentation.**

When an Employee is detailed from his/her position of record to another position, and the detail lasts more than thirty (30) calendar days, the detail will be documented in the Employee's official personnel folder and a copy given to the Employee.

Experience gained in details will be credited in qualifications considerations when the Employee applies for positions, if the Employee documents the detail on his/her application.

### **b. Unclassified Duties.**

Employees may be detailed to unclassified duties in 120-day increments for up to one year. Any extension for more than one year must be approved by the appropriate official. Details to unclassified duties will be supported by a typed list of duties, and furnished to the Employee, rather than an official position description.

### **c. Temporary Promotions.**

Details to higher grade positions are limited to sixty (60) calendar days. If an Employee is detailed to a higher grade position for more than sixty (60) days, the personnel action will be processed as a temporary promotion, with appropriate compensation. Temporary promotion for up to 120 calendar days may be made without competition.

## ARTICLE 7

### PERFORMANCE MANAGEMENT SYSTEM

#### 7.1 PERFORMANCE MANAGEMENT SYSTEM.

The Union recognizes the right of the Employer and the Employer recognizes its obligation to evaluate the performance of all Employees in accordance with Chapter 43 of Title 5 United States Code, 5 CFR 430, OPM, 370 DM 430, BLM Manual 1400-430 regulations.

#### 7.2 PERFORMANCE APPRAISAL.

Employees will be appraised at least once a year and given a rating of record. The rating of record is the summary rating completed at the end of the rating period established. Each Division/Staff will establish a rating period for its Employees subject to the agreement of the Union.

#### 7.3 EXCEPTIONS.

All Divisions/Staffs in the Service Center use the beginning and end of the Fiscal year as the rating period except for the Division of Finance. In the Division of Finance, the rating period for 1993 is October 1, 1992 through November 30, 1993. For 1994 the appraisal period will be December 1, 1993 through December 31, 1994. In 1995 and subsequent years the appraisal period will be from January 1 through December 31.

Any deviation from the established rating periods discussed in 7.2 and 7.3 will require negotiations between the Union and the Employer.

## **ARTICLE 8**

### **INCENTIVE AND PERFORMANCE AWARDS**

#### **8.1 GENERAL.**

- a. The Employer and the Union agree that the Incentive Awards Program should be equitable and utilized to the maximum extent to recognize Employees for their outstanding contributions toward improvements in efficiency and cost reduction under the Suggestion Program; for exemplary performance of duties; or for Special Acts and Services that go beyond the Employee's expected duties and responsibilities.
- b. The Employer and the Union recognize that the utilization of Incentive and Performance Awards must be in accordance with 5 CFR 430, 5 CFR 451 and Departmental and Bureau regulations.

#### **8.2 PROVISIONS.**

The Employer agrees to provide the following publicity and information:

- a. Formal presentations of awards at scheduled Branch or Staff Employee meetings, unless awardee requests confidentiality.
- b. Award recognitions in the Employer newspaper.
- c. A list of awards given by the unit upon request by the Union. This will include the title, series, grade, monetary amount, and position description number.

#### **8.3 AWARDS.**

An award is a method of recognizing and motivating Employees to increase their productivity and creativity for the benefit of the Employer and the public. Awards programs will be equitable in opportunity and there must be fairness and equity in the distribution of awards. All Employees will be given an opportunity to work at a level sufficient for award eligibility. Employees must have received at least a fully successful summary rating to be eligible for any performance award. All awards other than quality step increases are available to temporary Employees.

a. **Special Acts.**

A one-time special act, service or achievement of a non-recurring nature by an Employee or a group of Employees in the public interest connected with or related to official employment. The amount of the award is based on tangible and nontangible benefits to the Government.

b. **Sustained Superior Performance Award.**

This is a monetary award based on the performance of assigned tasks in a manner exceeding normal requirements as evidenced by a current summary rating of record.

c. **Quality Step Increase.**

This is a one-step increase in base pay to recognize Employees with outstanding summary ratings. The award is based on sustained high quality performance that is expected to continue into the future.

d. **Suggestion Awards.**

All adopted suggestions shall receive an award.

e. **Honorary Recognition.**

Typically a medal, plaque or certificate for significant career-oriented achievements or contributions in EEO, energy conservation, scientific research, improved communications with or service to the public, and others of high priority to the organization.

f. **Certificates and Letters of Appreciation or Commendation.**

These are nonmonetary awards given to recognize a suggestion or a specific accomplishment.

**8.4 CHANGES IN PROGRAM.**

Prior to any change to the current awards programs, the Union will be notified and the Union may request negotiations as appropriate.



## **ARTICLE 9**

### **DISCIPLINARY AND ADVERSE ACTIONS**

#### **9.1 GENERAL POLICY.**

Disciplinary action will be taken only for just and sufficient cause and will be consistent with 5 USC Chapter 75, 5 CFR 735 and 752, FPM Chapters 735, 751, and 752, 370 DM 735, 752 and 753, and BLM Manual 1400-752 regulations governing such actions. These regulations will be applied fairly and equitably.

#### **9.2 DEFINITIONS.** The following are definitions for disciplinary and adverse actions:

##### **a. Adverse Actions.**

A removal, suspension, furlough for 30 days or less, or reduction in grade or pay.

##### **b. Disciplinary Actions.**

An action taken by Management to correct an Employee's misconduct or failure to follow ethics regulations. Included are warnings, oral admonishments, letter of admonishment, letter of reprimand, suspensions, removals, or reductions in pay or grade.

#### **9.3 PROCEDURES.**

##### **a. Warning or Oral Admonishment.**

Warning and oral admonishments will be given directly to the Employee in a private environment. If the supervisor documents the discussion, a copy will be given to the employee.

##### **b. Letter of Admonishment or Reprimand.**

A letter of admonishment or reprimand will be issued directly to an Employee and will be sufficiently specific to indicate why the letter is being issued and what the Employee can do to improve or take needed corrective action.

##### **c. Suspensions of Fourteen (14) Days or Less.**

In accordance with Office of Personnel Management regulations, action may be taken for such cause as will promote the efficiency of service. The Employee against whom a suspension of fourteen (14) days or less is entitled to:

- (1) a two (2) day advance notice stating the specific reasons for the proposed action, except in circumstances which require immediate suspension. Two copies of the advance notice will be given to the Employee.
- (2) a reasonable time (but not less than twenty-four (24) hours) to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer.
- (3) be represented by (a) NFFE, Local 1945, representative, if a grievance is filed under the negotiated grievance procedure; or (b) by a NFFE representative, an attorney, or other personal representative if the appeal is outside of the negotiated grievance procedure.
- (4) a written decision and the specific reasons therefore at the earliest practicable date.
- (5) file a grievance under the negotiated grievance procedure or an EEO complaint if the Employee feels that he/she has been discriminated against.

**d. Removals, Suspension for More than Fourteen (14) Days, Reduction in Grade or Pay, and Furlough for Thirty (30) days or Less.**

In accordance with Office of Personnel Management regulations, an agency may take any one of the four actions identified above. An Employee against whom such an action is proposed is entitled to:

- (1) at least thirty (30) days advance written notice unless there is reasonable cause to believe the Employee has committed a crime for which a sentence of imprisonment may be imposed. The advance written notice shall be given to the Employee in two copies.
- (2) review the material which is relied on to support the reasons for action given in the notice.

- (3) a reasonable time, but not less than ten (10) days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer.
- (4) be represented by (a) NFFE, Local 1945, representative, if a grievance is filed under the negotiated grievance procedure; or (b) by a NFFE representative, an attorney, or other personal representative if the appeal is outside of the negotiated grievance procedure.
- (5) a written decision and the specific reasons therefore at the earliest practical date.
- (6) appeal to the Merit Systems Protection Board or to grieve it under the negotiated grievance procedure, but not both.

## ARTICLE 10

### GRIEVANCE PROCEDURE

#### 10.1 COMMON GOAL.

The Employer and the Union recognize the importance of settling disagreements and disputes promptly, fairly, and in an orderly manner that will maintain the self-respect of the Employee. It is the goal of this procedure to settle grievances at the lowest level of supervision and internally so that they may be settled expeditiously. The goal of this procedure is to resolve problems influencing Employee morale, and promote mutual respect between Management, bargaining unit Employees, and the Union.

#### 10.2 SCOPE.

This negotiated grievance procedure shall apply to matters of concern or dissatisfaction regarding the interpretation, application or violation of laws, regulations, or this agreement; conditions of employment; or relationships with agency supervisors and officials, including prohibited personnel practice charges, disciplinary and adverse actions. It shall apply to all matters indicated above, whether or not set forth in this agreement. This grievance procedure does not apply to:

- a. a violation relating to political activities;
- b. retirement, life insurance or health insurance;
- c. a suspension or removal for national security reasons;
- d. any examination, certification or appointment;
- e. the classification of any position which does not result in reduction in pay or grade for the Employee;
- f. reduction in-force or furloughs of more than thirty (30) days;
- g. summary performance ratings (see paragraph 10.12 of this article);
- h. non-selection from a properly prepared and certified roster;
- i. separation of probationary Employees.

Nothing in this article shall prevent Employees from exercising the option of appealing adverse actions, including prohibited personnel practices, to the Merit System Protection Board, provided that the Employee has not filed a formal grievance on the matter in accordance with this agreement.

### **10.3 APPLICATION.**

- a. A grievance may be undertaken by the Union, an Employee, a group of Employees, or the Employer. Any Employee or group of Employees may personally present a grievance and have it adjusted without representation by the Union provided that the Union has the opportunity to be present at all formal discussions between the grievant and management during the grievance process. In exercising their rights to present a grievance, Employee representatives will be free from coercion, discrimination or reprisal.
- b. The Union shall have a representative present at all formal discussions between the Employer and an Employee or Employees, held in the course of proceedings conducted to resolve grievances submitted by member of the Unit. The Employer will notify the representative twenty-four (24) hours in advance of the discussion. The representative shall be permitted to present the views of the Union during the discussions.

### **10.4 PROCEDURE FOR EMPLOYEE GRIEVANCES.**

The following procedures are established for the resolution of grievances:

#### **a. Informal Process.**

Employees and/or their representatives are encouraged, but not required, to discuss issues of concern informally with their supervisors. Employees and/or their representative may request, without filing a formal grievance to discuss items of concern with other officials.

#### **b. Formal Process.**

- (1) A Step 1 Grievance will be initiated by an Employee (and representative or Steward) by notifying the immediate supervisor or Staff Chief in writing within thirty (30) calendar days of the incident unless the grievant could not reasonably be expected to be aware of the incident by such time. In the latter case, the grievance must then be initiated in writing within thirty (30) calendar days of the date the grievant became aware of the incident.

- (a) The grievance shall first be presented by the grievant (or Union representative, if they elect to have one) in writing to the Employee's immediate supervisor. If no immediate supervisor exists the Branch Chief will receive the Step 1 grievance. The written notification must include:
- 1) the name of the grievant and name of the Union representative, if any;
  - 2) the date of alleged incident giving rise to the grievance;
  - 3) to the extent possible, all relevant information specifically related to and/or in support of the grievance;
  - 4) provision of the agreement or regulation allegedly violated;
  - 5) specific personal relief sought by the Employee.
- (b) The parties described above will meet as soon as is reasonably possible to discuss the pertinent issues involved in the grievance and attempt to reach a settlement satisfactory to the parties.
- (c) Within ten (10) work days of the written notification, a written decision will be given to the grievant.
- (d) If no decision is given, the grievant and/or representative will proceed with the Step 2 process.

(2) Step 2 Grievance.

If the grievant is dissatisfied with the decision given on the Step 1 Grievance, the grievance will be presented to the Division Chief or Acting Division Chief. The procedure is as follows:

- (a) The grievance will be presented in writing within five (5) work days after the date the decision was received by the Employee at the Step 1 level. It should include the information required for a Step 1 Grievance, as well as a copy of the written decision rendered by the Employer, if received.

(b) The parties may meet to discuss the pertinent issues involved in the grievance and attempt to reach a settlement satisfactory to the parties.

(c) Within five (5) work days of the presented Step 2 grievance, a decision will be issued by the Division Chief.

(3) Step 3 Grievance.

If the Grievant is dissatisfied, with the decision given on the Step 2 Grievance, the grievance may be presented to the Service Center Director or Acting Service Center Director.

(a) The Process to be followed is the same as described in (2)(a)through (2)(c).

(b) If the grievant is dissatisfied with the decision given on the Step 3 Grievance or no decision is received, the Union may proceed to arbitration.

**10.5 PROCEDURE FOR EMPLOYER GRIEVANCE.**

The following procedures are established for the resolution of grievances:

- a. The Service Center Director or Acting Service Center Director may submit grievances formally to the Union President or Acting Union President in writing.
- b. Appropriate Union and Management officials will meet in conference at mutually agreeable times to try to resolve the grievance.
- c. The Union President or Acting Union President shall give a written decision to the Service Center Director or Acting Service Center Director within ten (10) work days after receipt of a formal grievance.
- d. If the decision is not satisfactory to the Service Center Director or Acting Service Center Director, then the procedures set forth in Arbitration may be followed.

#### **10.6 PROCEDURE FOR UNION GRIEVANCE.**

The following procedures are established for the resolution of grievances:

- a. The Union President or Acting Union President may submit grievances formally to the Service Center Director or Acting Service Center Director in writing.
- b. Appropriate Management and Union officials will meet in conference at mutually agreeable times to try to resolve the grievance.
- c. The Service Center Director or Acting Service Center Director shall give a written decision to the Union President or Acting Union President within ten (10) work days after receipt of a formal grievance.
- d. If the decision is not satisfactory to the Service Center Director or Acting Service Center Director, then the procedures set forth in Arbitration may be followed.

#### **10.7 OPTIONAL MEDIATION.**

If the parties mutually agree, mediation will be used.

#### **10.8 QUESTION OF GRIEVABILITY AND ARBITRABILITY.**

Should either party declare a grievance non-grievable or non-arbitrable, the original grievance will be considered amended to include this issue. The notice of non-grievability or non-arbitrability will be in writing stating the reasons. The notice shall be given prior to the invoking of arbitration. If arbitration is invoked, all disputes of grievability and arbitrability will be referred to the arbitrator as a threshold issue in the case.

#### **10.9 TIME FRAMES.**

The time frames may be extended by mutual agreement.

#### **10.10 RESIGNATION/DEATH/SEPARATION.**

In cases where a pay or allowance issue is involved which could benefit the grievant or his/her estate, the grievance will be processed to its conclusion.

#### **10.11 RETURN TO DUTY.**

If the Employee wins an appeal, he/she will be returned to duty.



**10.12 GRIEVANCE PROCEDURE FOR SUMMARY PERFORMANCE RATINGS.**

Employees will first follow the Administrative appeals process when appealing the summary performance rating of their PIPR. If the Employee is dissatisfied with the decision of the panel, he/she may file a grievance. This grievance will by-pass the three (3) steps of the grievance procedure described above and go directly to arbitration.

## ARTICLE 11

### ARBITRATION PROCEDURES

#### 11.1 RIGHT TO ARBITRATION.

- a. If the decision on a grievance processed under the negotiated grievance procedure is not satisfactory, the Union, either as grievant or as representative of the grievant(s), or Management, may refer the issue to arbitration within twenty (20) calendar days after receipt of the last Step decision, or its due date.
- b. The notice referring an issue to arbitration shall be valid only if signed by the Union President or Acting President, or the Service Center Director or Acting Service Center Director.

#### 11.2 SELECTING THE ARBITRATOR.

- a. The parties shall immediately request the Federal Mediation and Conciliation Service to submit a list of five (5) impartial persons qualified to act as an arbitrator.
  - (1) The parties shall meet within ten (10) work days after the receipt of such list to select an arbitrator. The Employer and the Union will each strike one arbitrator's name from the list of five and shall repeat this procedure until only one name remains. The remaining name shall be the only and duly selected arbitrator.
  - (2) For the first arbitration under this contract, the parties shall flip a coin; the losing party shall strike the first name. The winning party from the first arbitration shall strike the first name the next time an arbitrator selection occurs, and the parties shall take turns at subsequent arbitrator selections.
- b. The parties will make every effort to schedule the arbitration as soon as possible.

#### 11.3 ARBITRATION PROCESS.

- a. The process to be utilized by the arbitrator may be one of the following:
  - (1) A stipulation of facts to the arbitrator can be used when both parties agree to the facts at issue and a hearing would serve no purpose. In this case, all facts, data, documentation, etc., are jointly

submitted to the arbitrator with a request for decision based upon the facts presented.

- (2) A submission to arbitration hearing should be used when a formal hearing is necessary to develop and establish facts relevant to the issue. In this case, a formal hearing is convened and conducted by the arbitrator.
  - (3) If the parties mutually agree upon a stipulation of facts, that will be the process used. Otherwise, if no agreement is reached, the formal hearing procedure will be the one used.
- b. The parties may mutually agree to have a verbatim transcript taken of an arbitration, and if so, both will equally share the cost of the transcript. If only one party wants a verbatim transcript, then that party may have one taken, paying the full cost involved.
  - c. The arbitration hearing or inquiry shall be held on the Service Center premises during the regular day-shift work hours of the basic work week. An Employee of the unit serving as the grievant's representative, and aggrieved Employee, and the Employee witnesses who are otherwise on duty shall be excused from duty as necessary to participate in and prepare for the arbitration proceedings without loss of pay, annual leave, or any other benefit.
  - d. In considering grievances concerning actions based on unacceptable performance and adverse actions appealable to the Merit Systems Protection Board, the arbitrator shall be governed by this Agreement and Section 7701(c)(1) of Title V, United States Code, as applicable.

#### **11.4 FEES AND EXPENSES.**

The arbitrator's fees and expenses shall be borne by the losing party. Therefore, the arbitrator will be instructed that as part of his/her decision, the following will be determined:

- a. Which party is the losing party, and therefore, the party who will pay. If, in the arbitrator's judgment, neither party is the clear losing party, then the arbitrator will indicate the percentage of arbitration costs each will pay.
- b. Exception to a. above is when a responding party fails to meet time limits in the grievance process and therefore, is liable for arbitration fees, win, loss, or draw.

**11.5 TIME LIMIT.**

The arbitrator will be advised that in order to fulfill the delegation to arbitrate, he/she must render a decision and remedy to the Employer and the Union as quickly as possible; but in any event no later than twenty (20) days after the conclusion of the hearing unless the parties otherwise agree.

**11.6 ARBITRATOR'S AUTHORITY.**

The arbitrator's decision(s) shall be final and binding and the remedy shall be effected in its entirety, provided it is in accordance with law, rule, and regulation.

**11.7 ARBITRATOR'S AUTHORITY IN DISPUTES OVER THE AGREEMENT.**

- a. The arbitrator shall have the authority to resolve any questions of grievability or arbitrability and interpret this agreement and Agency or Bureau policy.
- b. The arbitrator shall have no authority to add to or modify any terms of this agreement or Agency or Bureau policy.

**11.8 EXCEPTIONS.**

- a. Exceptions to the arbitrator's decision may be filed to either the Federal Labor Relations Authority or the courts, depending upon the action grieved.
- b. Exceptions will be filed within thirty (30) days of decision.
- c. If the parties mutually agree not to file, the remedy will be effected immediately.

## ARTICLE 12

### LEAVE

Leave will be administered in accordance with BLM Manual 1400-630

#### 12.1 ANNUAL LEAVE.

Annual leave shall be earned in accordance with appropriate statutes and regulations. The maximum amount of annual leave which may be accrued and not used during a leave year is 240 hours. Annual leave may be used in increments of fifteen (15) minutes. Annual leave which is requested in advance normally will be approved by the Employer if the needs of the position are met. The granting and scheduling of said leave is based on the needs of the BLM in accomplishing its mission. The Employee and approving official are encouraged to plan, to the extent possible, the utilization of annual leave. Except in an emergency (unanticipated event), annual leave must be requested in advance (i.e., when the Employee has knowledge of the need). The Employer's decision to grant or deny annual leave will be based on a number of items, including the requirements for office coverage and mission requirements. Except in emergency situations, the reason for the leave request will not be considered.

##### a. Procedures for Requesting Leave.

- (1) The Employee may verbally request annual leave for any time less than five (5) continuous workdays. The time and attendance report will be initialed.
- (2) An SF-71 must be submitted when requesting annual leave of five (5) or more continuous workdays.
- (3) Reasons for disapproval of an Employee's request for annual leave of more than five (5) days will be stated in writing on the SF-71. A new leave period will then be mutually agreed upon by the Employee and the supervisor and committed to writing.

##### b. Restored Leave.

Annual leave which is accrued beyond 240 hours will be lost at the end of the leave year unless it is used or the leave is restored. Annual leave which is lost because of exigencies of the public business may be restored if the Service Center Director determines that the exigency is of major importance and that annual leave may not be used by the Employee to

avoid forfeiture. Annual leave above the 240-hour carry-over limit cancelled due to work exigency may be restored if:

- (1) the leave has been requested by the Employee in writing a minimum of three (3) pay periods prior to the end of the leave year;
- (2) the leave is approved by the approving official in writing but is subsequently not used in the leave year due to an approved exigency which was approved prior to the cancellation;
- (3) there is no reasonable alternative for rescheduling the leave during the remainder of the year; and
- (4) the request for restoration of annual leave is approved by the Service Center Director after the close of the leave year.

## **12.2 SICK LEAVE.**

Sick leave shall be earned in accordance with appropriate regulations. Sick leave shall be used for doctor, dentist, optician, and other medical appointment, for illness of the Employee, and for highly contagious diseases for which public health officials require a member of the Employee's family to be quarantined, isolated, and restricted.

### **a. Procedures for Requesting Sick Leave.**

- (1) An Employee shall request advance approval for sick leave for medical, dental or optical examinations, unless an emergency examination is required.
- (2) If an Employee is unable to report to work due to illness, he/she must notify the supervisor within the first two (2) hours of the Employee's normal starting time. If the Employee is absent for more than one (1) day, he/she must call in daily unless prior arrangements are made with the supervisor.
- (3) A medical certificate may be required if more than three (3) consecutive working days of sick leave are used, or if the Employee is on a leave restriction.

### **12.3 LEAVE RESTRICTION.**

If the Employer believes an Employee is abusing his/her leave privileges, the Employer may place the Employee on "Leave Restriction" in accordance with appropriate laws and regulations

#### **a. Leave Restrictions.**

If the potential problem of excessive absenteeism is developed, a supervisor may require documentation over and above that required of other Employees, as outlined in the BLM manual under the particular type of leave category.

#### **b. Written Notice.**

An Employee must be given written notice of any special restrictions placed on him/her. The notice must include the reason for the action, the type(s) of acceptable evidence (e.g., certificate from a physician), the conditions for submission of any evidence in order to obtain approval of leave requests (e.g., time frames), and the consequences of not following the procedures outlined in the notice.

#### **c. Length of Restriction.**

The restriction should be applied only as long as the Employee appears to be using excessive amounts of leave; however, it should last at least six (6) months, but not longer than one (1) year. If, after a reasonable period of time, there appears to be no improvement, other options such as a fitness-for-duty examination, counseling programs, etc. should be explored. These restrictions may be extended.

### **12.4 MATERNITY AND PATERNITY LEAVE.**

- a. An Employee who is pregnant will have her absence set by the Employee, her physician, and her supervisor based upon her physical condition.**
- b. Maternity leave in the form of sick leave, annual leave, and leave without pay will be granted during delivery, confinement and recuperation as determined by the Employee and attending physician based upon the physical condition of the Employee, which will normally be no more than twelve (12) weeks after delivery. Sick leave may only be used during the period the Employee is incapable of working as certified by the physician. All other time must be requested under annual leave or leave without pay.**

- c. Fathers may be granted paternity leave, i.e., the use of annual leave or leave without pay, to care for the newborn child, the child's mother, and/or other minor children. The amount of paternity leave allowed shall depend upon the circumstances of the individual case.

#### **12.5 ADOPTION LEAVE.**

An Employee may be granted appropriate leave (i.e., annual leave, leave without pay) to carry out parental responsibilities in connection with the adoption of a child.

#### **12.6 FAMILY LEAVE.**

- a. An Employee may request annual leave or leave without pay for the purpose of aiding, assisting or caring for family members. The Employee requesting such extended leave shall provide the Employer with reasonable advance notice which is commensurate with the extended period of absence. The request may be approved or approved in part, dependent upon the requirements of the Employee's position.
- b. In the case of an extended leave of absence, the Employer will attempt to return the Employee to the same or a similar position. Employees on extended leave of absence may be recalled subject to the needs of the Service Center mission.
- c. When OPM guidance concerning family leave is issued, the Employer will negotiate on the implementation.

#### **12.7 MILITARY LEAVE.**

Employees who are members of the National Guard or Reserves will be granted military leave in accordance with appropriate regulations.

#### **12.8 LEAVE WITHOUT PAY.**

Leave without pay (LWOP) is a temporary nonpay status and approved absence from duty granted upon the Employee's request during hours which an Employee would otherwise work or for which he/she would be paid. Granting LWOP is a matter of administrative discretion and not a right.

- a. Employees who do not have leave to their credit and wish to take leave for emergencies or other necessities may be granted leave without pay upon request, work load permitting. Employees may request leave without pay if they have leave to their credit but for some reason choose not to take it.



Leave without pay may be granted upon request to disabled veterans needing medical treatment and reservists and National Guard personnel for military training duties. Leave without pay may also be granted on an extended basis for educational purposes, while awaiting action on a retirement or OWCP claim, and for other reasons determined appropriate by the Employer.

- b. To approve requests for extended leave without pay, there should be a reasonable expectation that the Employee will return at the end of the approved period. Requests for such leave will be approved in accordance with BLM Manual 1400-630. In addition, it should be apparent that at least one of the following benefits would result:
  - (1) Increased job ability;
  - (2) Protection or improvement of Employee's health;
  - (3) Retention of a desirable Employee; or
  - (4) Furtherance of a program of interest to the Government (e.g., Peace Corps volunteers).
- c. Other requests for short periods of leave without pay may be granted, depending on workload and the needs of the Service Center, and if the Employee definitely plans to return to duty.
- d. Information regarding the impact of LWOP on Employee benefits may be obtained from the Employee's Personnel Office.

#### 12.9 ADMINISTRATIVE LEAVE.

- a. At the discretion of the Employer, administrative leave may be granted to Employees consistent with BLM and OPM regulations and decisions of the Comptroller General.
  - (1) Emergency Preparedness Activities.
    - (a) Full-time Employees who participate in Federally recognized emergency preparedness programs may be excused for a reasonable amount of time to participate in pre-emergency training and test programs, without charge to leave up to a maximum of forty (40) hours in any calendar year, if the absence will not require the hiring of a temporary Employee or the payment of overtime.

(b) Employees seeking approval for administrative leave under this Section shall provide to the supervisor evidence from State or local emergency preparedness officials that the Employee served or participated in such programs pursuant to a specific request of a public governmental body or organization established pursuant to and in accordance with a State civil defense law.

(c) The leave must be requested and approved in advance.

(2) **Blood Donation.**

An Employee donating blood at an officially authorized blood bank, or in emergencies to individuals, may be granted sufficient administrative leave to donate blood up to four (4) hours on the same day on which the donation is made and not more than once every fifty-six (56) days. A certificate of verification may be required.

(3) **Medical - Administrative leave may be granted for:**

(a) Absence to obtain services available at the Employee Health Unit at work;

(b) Absence to travel to, undergo, and return from a medical examination requested by an authorized BLM-SC official;

(c) Absence while undergoing initial examination and emergency treatment of work-related injuries on the day of injury; or

(d) Absence for the time the Employee confers with a counselor at the Employee assistance program. This absence is contingent upon the Employee signing a written release of information to enable the counselor to inform the supervisor that the Employee is participating in the program. If and when the Employee is referred to an outside treatment facility, the Employee must request annual leave or sick leave or leave without pay as appropriate.

b. Administrative leave may be granted when the activity shuts down for a short period of time due to circumstances beyond the agency's control. Administrative leave for instances involving snow storms, floods, lack of heat or electricity, and similar events are

this type of leave. Administrative leave for instances where the facility is granted a delayed reporting time or the facility is closed for one or more days will be granted in accordance with the regulations and the Employer's stated policy. The Employer reserves the right to designate critical Employees who will be required to report for or remain on duty.

**12.10 COURT LEAVE.**

- a. Employees who are called for jury duty will be granted court leave. As a general rule, the Employer will not request that an Employee be excused from jury duty.
- b. Employees who are called for jury duty will turn over any compensation fees (jury fees) earned to the agency and continue to collect their salaries during the time they are on jury duty.
- c. Court leave will be granted in accordance with applicable regulations.

**12.11 VOLUNTARY LEAVE TRANSFER PROGRAM.**

This program is designed to allow Employees to voluntarily donate their unused accrued annual leave to another Employee who needs such leave because of a medical emergency. The program will be administered in accordance with applicable regulations.

## **ARTICLE 13**

### **OVERTIME**

#### **13.1 GENERAL.**

Overtime compensation shall be awarded under controlling regulations and/or laws. Employees shall be compensated for any partial hour worked in fifteen (15) minute increments.

#### **13.2 EMPLOYEE ASSIGNMENT.**

Overtime will be assigned to employees consistent with the specialized skills and abilities necessary to perform the work as determined by the employer. In no case will overtime work be assigned to any Employee as a reward or punishment. If an Employee expresses unwillingness to work overtime, the Employer shall attempt to accommodate the Employee and excuse him/her from overtime work. If allowances cannot be made to accommodate Employee preferences then the employer retains the right to order the Employee to work overtime.

#### **13.3 TRAVEL.**

When practicable, travel will normally be scheduled within the Employee's scheduled hours of work. Travel for non-exempt Employees during regular duty hours on nonwork days will be compensated as provided by law and regulation. Overtime pay will not be paid for exempt Employees unless the travel meets the definition for arduous work, or is for purposes not administratively controllable by the Federal Government.

#### **13.4 TRAINING.**

Overtime hours will not be paid for training.

#### **13.5 COMPENSATORY TIME.**

- a. Compensatory time earned in lieu of overtime pay may be received by nonexempt Employees only if requested in writing by the Employee for periods which have been approved for overtime pay. Nonexempt Employees who have not used compensatory time earned within a six month period will be paid for the unused amount.

- b. Compensatory time earned in lieu of overtime pay may be received by exempt Employees if requested by the Employee and approved by the Employer under overtime regulations. Compensatory time for exempt Employees not used within six months of being earned will be forfeited.
- c. Compensatory time to be used must be requested by the Employee and approved by the supervisor ahead of time.

**13.6 SPECIAL CIRCUMSTANCES.**

An Employee whose personal religious beliefs require that he/she be absent from work during scheduled work periods may elect, with the approval of his/her supervisor, to work compensatory overtime for the purpose of taking time off without charge to leave.

## **ARTICLE 14**

### **PAY AND PER DIEM**

#### **14.1 EQUAL PAY FOR EQUAL WORK.**

The parties agree to equal pay for equal work.

#### **14.2 RECEIPT OF PAY.**

The Employer will make every reasonable effort to ensure that Employees receive their paychecks on time. In the event that a paycheck is lost or late, the Employer will make every reasonable effort to correct the problem.

#### **14.3 BACK PAY.**

- a. Interest on back pay awards to Employees will be paid in accordance with applicable law.
- b. A wage-grade Employee temporarily promoted to a higher grade will not lose accumulated time toward their next step increase when returned to the grade from which promoted.

#### **14.4 PER DIEM.**

Under normal conditions, the Employer will plan travel assignments far enough in advance so the Employee will have sufficient time to request and receive an advance for travel.

- a. Any time an Employee is not notified of travel in time to receive an advance from the U.S. Treasury, an advance of funds will be allowed from imprest funds in accordance with Bureau policy not to exceed the imprest fund regulation limit and availability of funds.
- b. Employees in travel status, including Employees temporarily detailed to another duty station, will receive the applicable amount of per diem allowable for that area as defined by Federal Travel Regulations and Bureau policy.

**14.5 CREDIT CARD.**

Participation of Employees in the program is optional for frequent travelers; however, Employees who refuse a card and desire advance travel funds, will be treated as if they had accepted the card. Frequent travelers are Employees who travel at least two (2) times per year.

**14.6 REIMBURSEMENT FOR TELEPHONE CALL TO HOME WHILE ON TRAVEL STATUS.**

a. Frequent travelers may be issued an FTS-2000 calling card for their exclusive use. Infrequent travelers are entitled to make one such phone call per day provided they are in travel status two (2) or more nights.

b. Procedures to be used for telephone calls while on travel are:

- (1) brief (five (5) minutes or less) station-to-station telephone calls to their home community while on travel status.
- (2) official business calls while on travel status.
- (3) calls related to unforeseen delays or emergency situations.
- (4) Employees shall be reimbursed for phone calls while in travel status for less than overnight if the calls are related to unforeseen delays in returning or emergency situations.
- (5) Employees in travel status overnight may be reimbursed for additional calls related to unforeseen delays or emergency situations arising subsequent to normal calls.

**14.7 HAZARD PAY.**

The Employer normally does not assign duties that would qualify for hazardous pay. If such duties are assigned, the Employer will follow FPM 532 guidelines for pay.

## ARTICLE 15

### WORKWEEK, HOURS OF WORK

#### 15.1 WORKWEEK.

A basic forty (40) hour workweek may be established which does not extend over more than six (6) of any seven (7) consecutive days.

#### 15.2 OFFICIAL HOURS.

The official hours of the Service Center are 7:45 a.m. to 4:15 p.m., Monday through Friday, with one-half hour for lunch. The Service Center must be able to provide adequate service during these hours.

#### 15.3 WORK SCHEDULES.

##### a. Fixed Schedule.

Employees may work a fixed schedule of eight (8) hours per day and 40 hours per week.

##### b. Alternative Work Schedules.

Approved schedules are gliding, variable day, variable week, and maxiflex. Approved compressed schedules are the 4-10 schedule and the 5/4-9 schedule. The alternate work schedules program will be administered in accordance with Departmental and BLM regulations.

##### c. Unusual Schedules.

Work schedules for days/hours other than those stated in paragraphs 3a and 3b above must be justified in writing and approved by the Service Center Director or designated officials.

#### 15.4 PROCEDURES.

Employees electing an Alternative Work Schedule must:

- a. Obtain prior approval from the immediate supervisor
- b. Sign in and out of duty using the Service Center individual log form.



**15.5 CREDIT HOURS.**

To work credit hours, Employees must have a justifiable workload. Supervisory approval must be secured before earned credit hours can be used.

**15.6 BREAK TIMES.**

One fifteen (15) minute rest period within each four (4) hour work period of the normal eight (8) hour day is authorized. Supervisors retain the right to schedule the break periods for each Employee. Rest breaks allowed to Employees are not cumulative and may not be taken at a time other than with the supervisor's approval. Rest breaks may not be used to lengthen the lunch period, shorten the entire work day or used in conjunction with leave.

**15.7 BREAK AREAS.**

For non-Federal Center space a separate area, in close proximity to the work site, will be provided for Employees to use for lunch and breaks. Refrigerators, microwaves, and other appliances currently located at the Service Center facility, will be allowed as long as they are operational and do not adversely impact electrical power supplies to the facility.

When constructed, smoking areas will be commensurate with the smoking population, but not less than sixty-four (64) square feet.

For renewal of the lease for 1994, the smoking area will be negotiated in the leased space. If the lessor agrees and if bargaining unit Employees continue to be assigned to 200 Union Street after April 1, 1994, the employer will provide a properly ventilated smoking area by that date.

## **ARTICLE 16**

### **FLEXIPLACE**

The Employer and the Union recognize that, under certain circumstances, a flexible work place could be mutually beneficial to both parties. The Employer agrees to consider requests from individual Employees for use of a flexible work place (flexiplace) or may propose flexiplace for some Employees under some circumstances. This article will be in compliance with OPM guidelines. Implementation procedures will be negotiated.

## ARTICLE 17

### JOB SHARING

#### 17.1 DEFINITION.

The Employer and Union recognize that, in some instances, job sharing could be beneficial for both Employees and Management. This is especially true when a function would require more than a full time person, but less than two (2). Although one job would be shared, job sharers would be considered to be individual part-time Employees for purposes of appointment, tour of duty, leave, holidays, benefits, service credit, and personnel ceilings.

#### 17.2 TOUR OF DUTY.

Specific work schedules will depend on the nature of the job and the needs of the office and job sharers. Scheduling may take advantage of the fact that two people rather than one are filling the job and schedules of these individuals could overlap, thus ensuring better coordination and efficiency. A job sharer will be required to work a minimum of sixteen (16) hours per week but no more than thirty-two (32) hours per week.

#### 17.3 JOB SHARE DECISIONS.

When an Employee requests that a position be changed to a job-share position, that Employee will be responsible for developing a proposal for the immediate supervisor of the identified position. This proposal will identify how the position could work as a job-share position, how it could be filled (e.g. other parties expressing interest in a job-share situation), how the position would operate using two (2) people to fill the position, and the benefits to the Service Center. The viability of the proposal will be determined and a decision will be recommended to the appropriate management official. The Employer will furnish written rationale for the decision.

## ARTICLE 18

### TRAINING FOR EMPLOYEES

#### 18.1 GENERAL.

The parties recognize the value of a well-trained work force and the need for a well-planned and conducted training effort. The parties agree that training efforts are to be in accordance with the BLM Manual 1400-410, and will be aimed at improving job performance, providing for career development, or meeting needs as determined by the Employer. The parties further mutually agree to encourage Employee self-development.

#### 18.2 SCHEDULING.

Recognizing the need for flexibility, the Employer retains the right to schedule and assign Employees to training, determine the investment to be made in training, and to select training methods and facilities. If administratively controllable, the Employer will make every effort to schedule training so that Employees will not have to travel on weekends. For those Employees enrolled in work-related classes not scheduled by the Employer, the Employer agrees to make a reasonable effort to enable an Employee to adjust their work schedule, if feasible, in order to attend.

#### 18.3 RECORDS.

The Employer agrees to place in the Employee's Official Personnel Folder (OPF) records of non-government sponsored training and/or an officially issued transcript for academic courses which an Employee has completed.

#### 18.4 EXPENSES.

The Employer agrees to consider reimbursement of expenses incurred by an Employee in attendance at officially approved work-related courses on their own time.

#### 18.5 USE OF EQUIPMENT.

The Employer agrees to make available to all Employees enrolled in approved training courses academic aids, such as desk calculators, typewriters, and computers, if available at mutually agreeable times.

## **18.6 EMPLOYEE DEVELOPMENT.**

### **a. Education Awards Program.**

Budget permitting, the Employer will publicize and encourage Employees in one-grade interval positions, GS-9 and below, to participate in the program. The program shall be available to all Employees on a fair and equitable basis.

### **b. Career Development.**

BLM and OPM approved career development programs, such as Management and Leadership, Women's Executive Leadership Program, will be announced as appropriate. Employees will be encouraged to apply.

### **c. Individual Development Plans (IDPs).**

IDPs will be developed for bargaining unit Employees. Developmental assignments, formal training, mentoring, self-study, etc. are some of the methods which may be used to achieve desired results. The DOI Learning Center may be used to provide training to those Employees in need of improving their basic skills.

## ARTICLE 19

### DISCRIMINATION

#### 19.1 COMMITMENT.

- a. The parties fully subscribe to the principles of equal employment opportunity. In the administration of this agreement, the parties agree that there should be no discrimination of any kind in any action involving Employees because of race, color, religion, sex, national origin, age, disability, martial status, or political affiliations.
- b. The parties recognize the need to achieve the fullest utilization of Employee skills and potential on an equal basis. In this regard, the parties will strive to develop and implement programs according to applicable law and applicable higher-level regulations, such as: 42 U.S.C. 2000e-16; 29 U.S.C. 633a; 29 U.S.C. 791 and 794a; 29 U.S.C. 206(d); 5 U.S.C. 2302(b); 29 CFR 1613 et seq.; 29 CFR 1607 et seq.
- c. The Employer is committed to providing a workplace free of a "glass ceiling" at the SC. A "glass ceiling" is defined as those barriers based on attitudinal or organizational bias that prevent qualified individuals from advancing upward in their organization into Management-level positions. The Employer agrees to work to identify and ultimately eliminate any such workplace barriers which may exist at the SC.
- d. The Employer will assure equal opportunity for current personnel and agrees to the application of equal employment principles and practices, including taking appropriate steps to assure equality for present Employees. In addition, the Employer shall conduct a continuing program for recruitment of minority group members and women for positions at the SC to carry out the policy of eliminating under-representation. The Employer will direct special efforts at recruiting in minority group communities; in women's organizations; in educational institutions with a significant representation of women and minorities; and from other sources from which members of minority groups and women can be recruited.

## **19.2 SEXUAL HARASSMENT.**

- a. In accordance with Title VII of the Civil Rights Act of 1964, as amended, sexual harassment is defined as deliberate or repeated unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when:
  - (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  - (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
  - (3) Such conduct has the purpose or effect of reasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- b. Any Employee who believes he/she has been subjected to sexual harassment should contact their Union representative, the Division of Personnel, the EEO Staff, or Management official. Once contacted, all parties have the responsibility to use the utmost discretion in the prompt and impartial examination of the issues involved in allegations of sexual harassment/discrimination. Anonymity will be granted to any Employee, as prescribed by regulations, when they seek assistance.

## **19.3 EEO COMPLAINT PROCESS.**

- a. Any Employee who chooses to file or has filed an EEO complaint shall be free from restraint, coercion, discrimination, interference, or reprisal.
- b. The Employee shall be entitled to expeditious processing of the complaint as prescribed in the EEO complaint process or through the negotiated grievance procedure, but not both.
- c. The Employee shall have the right to choose a representative and to choose a designated EEO Counselor from the list maintained by the EEO Staff. Consultation with an EEO Counselor pursuant to Civil Rights Act 1991 does not constitute filing a formal EEO Complaint. A complainant has the right to be accompanied, represented, and advised by a representative of their choosing at any stage of the complaint process. The EEO Counselor will advise the complainant of the appropriate procedures to follow.

- d. In EEO settlements, the Employer shall notify the Union of all proposed remedial or corrective actions which impact on bargaining unit Employees. The Employer will notify the Union of any provisions concerning conditions of employment that affect bargaining unit Employees and provide the Union with the opportunity to bargain over those conditions of employment.

**19.4 OFFICIAL TIME.**

Complainants, representatives and EEO Counselors shall be granted official time in accordance with appropriate regulations.

**19.5 REPORTS.**

Upon request, the Employer will provide the Union a copy of the EEO reports as compiled for and sent to the Washington Office.

**19.6 AFFIRMATIVE EMPLOYMENT PLANS.**

Upon request, the Employer will provide the Union with a copy of the Employer's Affirmative Employment Plan.



## **ARTICLE 20**

### **ORIENTATION OF EMPLOYEES AND DISTRIBUTION OF AGREEMENT**

#### **20.1 DISTRIBUTION OF AGREEMENT.**

The Employer shall provide new Employees in the bargaining unit with a copy of the Agreement.

#### **20.2 ORIENTATION.**

Employees entering into positions which have been designated as a part of the bargaining unit will be so informed that Local 1945 of the National Federation of Federal Employees is the exclusive representative. The Employer will provide a list of current Union officers and representatives in the orientation package.

Whenever the Employer holds an orientation for new Employees in the bargaining unit, the Union shall be provided fifteen (15) minutes to address Employees.

#### **20.3 UNION ORIENTATION PACKETS.**

The Union will provide appropriately updated orientation packets to the Employer for distribution to all new Employees to the Service Center.

## ARTICLE 21

### REDUCTION-IN-FORCE

#### 21.1 GENERAL.

The decision to conduct a reduction-in-force (RIF) is a management right, and a RIF will be administered by the Employer in accordance with regulations contained in FPM Chapter 351, 370 DM 351, BLM Manual 1400-351, 5CFR 351 and other appropriate regulations.

#### 21.2 ADVANCE PLANNING.

- a. Management will take reasonable steps to prevent a RIF by using other techniques to achieve cost or personnel ceiling changes that would otherwise be achieved through a RIF.
- b. To avoid or minimize a RIF, consideration will be given to, such voluntary actions as optional and discontinued service retirement, leave without pay, OPM-approved group early out retirement, and reduction in hours of work. Hiring freezes and furloughs will also be considered to reduce or eliminate the need to have a RIF. The waiving of qualifications requirements will be considered when possible to place Employees in order to reduce the impact of RIF.

#### 21.3 WRITTEN NOTICE.

Each competing Employee selected for release from a competitive level under RIF regulations will receive a specific written notice at least sixty (60) calendar days before the effective date of release. When management issues notices to Employees, it will also notify the Union. This notification will include name, title, series, and grade of Employees affected. When a RIF is caused by circumstances not reasonably foreseeable, the Employer may shorten the notice period from sixty (60) days to thirty (30) days if such a reduction is approved by OPM.

#### **21.4 REEMPLOYMENT RIGHTS.**

Any Employee who receives a notice of separation will be given information on the right to reemployment consideration under the Reemployment Priority List, the Interagency Placement Assistance Program, and the Displaced Employee Program; how to apply for unemployment insurance; eligibility for severance pay or retirement; and temporary continuation of health insurance coverage. The Employer will also provide separating Employees with assistance in exploring non-Federal employment opportunities.

#### **21.5 APPEAL RIGHTS.**

Eligible Employees may appeal a separation caused by RIF to the Merit System Protections Board.

#### **21.6 UNION RIGHTS.**

Recognizing the Union's interest in protecting and representing Employees:

- a. The Employer will give the Union an opportunity to negotiate on the adverse impact and implementation of a RIF which affects bargaining unit Employees and to keep the Union informed of RIF developments.
- b. The Employer will notify the Union and give them a copy of the request for approval for RIF. This notification will be given at least forty-five (45) days prior to the effective date, if possible. This notification will include name, title, series, and grade of Employees affected; efforts that have been taken to avoid the RIF; and expected outcomes of the RIF. Retention Registers will be made available to the Union as soon as they are developed, which will be at least thirty-one (31) days prior to the effective date.
- c. Thirty (30) days prior to the RIF effective date, management shall provide the Union a list of all positions which are considered trainee or developmental for reduction in force purposes.

#### **21.7 I & I BARGAINING.**

The Employer will impact and implementation bargain with the Union prior to any contracting out actions of similar duties.

**21.8 FILLING VACANCIES.**

**When the Employer decides to fill vacancies, qualified Employees on the Retention Register/Placement Programs will be considered in accordance with regulations.**

## ARTICLE 22

### REORGANIZATIONS/TRANSFER OF FUNCTIONS

#### 22.1 REORGANIZATIONS.

The Service Center may reorganize its structure from time to time to promote efficiency and effectiveness in performing its mission. If the proposed reorganization affects the working conditions in the bargaining unit, the Employer will notify the Union in advance of taking such action. The Union may request negotiations on implementation and impact in accordance with the Negotiations Article. The reorganization will not be completed until:

- a. all affected Employees have accurate position descriptions for their new positions.
- b. Employees have updated PIPRs that reflect the major work assigned to them.
- c. Employees have received a written close-out evaluation when either the supervisor or job has changed.
- d. all Employees will be notified of their new organization of record.
- e. negotiations are completed, unless the agency believes an overriding exigency of the public service exists.

#### 22.2 TRANSFER OF FUNCTION.

The Service Center's functions change on a regular basis, normally by adding functions. However, some functions presently being performed at the Service Center could be transferred out at some future date. If the Bureau decides that a function(s) should be moved from the Service Center to another office, the Union will be notified of the proposal to transfer. The Union will have the opportunity to negotiate impact and implementation in accordance with the Negotiations Article. The transfer of function could impact the Employee(s) performing that function either by requiring him/her to go with the function or by elimination of the position altogether. The affected Employee(s) will be notified and counseled on options available. Additionally, the Employer will consider requests from the affected Employee(s) as to other options to consider.

## **ARTICLE 23**

### **CONTRACTING-OUT WORK**

**Prior to implementation of any decision to contract-out work, the Employer shall negotiate with the Union to the fullest extent allowed by law. These negotiations shall be conducted in accordance with the terms of this Agreement.**

## **ARTICLE 24**

### **TEMPORARY AND PROBATIONARY EMPLOYEES**

#### **24.1 TEMPORARY EMPLOYEES.**

This Section applies to temporary Employees in the bargaining unit. Upon arrival for duty the Employee will be provided with an orientation and told that appropriate paperwork, including a copy of the position description, will be forthcoming within thirty (30) days. If possible, the Employer will notify these Employees, not less than one (1) pay period in advance, of the termination of their appointment. Temporary Employees shall not be used to circumvent the merit staffing procedure.

#### **24.2 PROBATIONARY EMPLOYEES.**

The performance of probationary Employees will be evaluated and any observed performance deficiencies will be discussed. If the Employee is to be terminated, OPM regulations will be followed. Probationary Employees have representational rights regarding conditions of employment.

## **ARTICLE 25**

### **HEALTH SERVICES**

#### **25.1 HEALTH SERVICES PROGRAM.**

The Employer and the Union agree that the well-being of Employees is of mutual interest. Accordingly, we are mutually committed to maintaining a healthy, quality work environment for those Employees and to promoting and fostering programs which will enhance their well-being. The Employer will continue participation in the Denver Federal Center's health services unless/until the Department of the Interior establishes its own health services for agencies at the Center.

Employee participation will be voluntary. Results of any examination/test will be furnished only to the Employee and/or to a private physician designated, in writing, by the Employee.

The Employer will advise Employees periodically of the availability of periodic medical screening and health maintenance examinations so that those Employees who are interested may apply.

#### **25.2 EMPLOYEE ASSISTANCE PROGRAM.**

The Employer and the Union recognize the value of the Employee Assistance Program outlined in applicable laws, regulations, and guidelines. The Employer shall continue to provide an Employee Assistance Program which meets the requirements of applicable laws, regulations, and guidelines.

Employee participation in the program shall be voluntary. Employees will be granted Administrative Leave to meet with the Agency contracted Employee Assistance Program provider. The granting of excused absence depends on the Employee's signing a written release of information to enable the counselor to inform the supervisor that the Employee is participating in the Employee Counseling Services Program (ECSP). If the Employee goes to the ECSP Staff on his/her own and/or wishes to maintain the confidentiality of the visit, he/she must request leave or leave without pay, as appropriate.

Employees undergoing an independent prescribed program of treatment will be granted sick leave for this purpose on the same basis as any other illness when absence from work is necessary.



## ARTICLE 26

### MEDICAL QUALIFICATIONS AND DETERMINATIONS

#### 26.1 GENERAL.

The Employer will follow law, applicable Government-wide, DOI, and BLM regulations in all medical examinations.

#### 26.2 PREREQUISITE CONDITIONS.

When the Employee believes that a health problem is causing his/her performance or conduct problems, the Employee shall be given an opportunity to provide medical evidence documenting the health problem that affects his/her performance or conduct. The Employer shall give the Employee an opportunity to request reasonable accommodations or disability retirement.

#### 26.3 PROCEDURES.

- a. **Notice to the Individual.** When the Employer orders or offers a medical examination or requests medical documentation, it must, inform the Employee in writing of:
  - (1) the reasons for the examinations;
  - (2) the consequences of failure to report for the examination; and
  - (3) the individual's right to submit medical information from his/her own physician or practitioner, and the Employer's obligation to consider such information. In addition, the employer may elect to send the Employee to a physician selected by the Employer.
- b. **Informing the Physician.** The Employer will ensure that the physician knows exactly what medical information is required, the duties and requirements of the position (including environmental considerations), and any other pertinent factors directly relevant to determining the individual's ability to perform safely and efficiently, without hazard to himself/herself or others. If an Employee has been under medical treatment, this fact should be communicated to the examining physician. The results of the examination should take account of the examiner's understanding of the diagnosis, treatment, and rehabilitation provided by the treating physician. If inconsistencies exist between the examiner's and the treating physician's

diagnoses and/or conclusions, the examiner should make a concerted effort to account for such inconsistencies and to discuss their implications for the person's employability.

**26.4 COUNSELING.**

When the Employer suspects that the performance or conduct of an Employee may be health-related, the Employee may be encouraged to seek counseling through the Employee Assistance Program.

**26.5 ACCOMMODATIONS.**

When the results of a medical examination reveal that the Employee cannot satisfactorily perform his/her regularly assigned job, the Employer will consider reasonable accommodation for the Employee under the applicable regulations.

**26.6 RECORDS.**

All medical records shall be considered sensitive and will be maintained and used in accordance with the applicable provisions of 5 CFR 339.

## **ARTICLE 27**

### **SAFETY AND HEALTH**

**The Employer and the Union mutually agree to cooperate in common efforts to create and maintain safe and healthful work conditions in order to minimize accidents and to prevent lost worktime due to illness or injury.**

**The Employer will provide safe and sanitary working conditions and equipment in compliance with BLM Manual 1112 and Handbook H-1112.**

## **ARTICLE 28**

### **STANDING COMMITTEES**

**When committees are formed which comprise bargaining unit Employees, the Union will be allowed at least one member on the committee. Such Local 1945 representatives will perform the same duties as other members of the committee in accordance with the committee's assigned responsibilities and will have the same voice in committee recommendations as do other duly appointed members.**

## ARTICLE 29

### INFORMATIONAL REPORTS

**Periodic Reports.** The Employer shall provide the Union with the following information:

- a. A list of Employees entitled to priority consideration and referrals for such consideration (quarterly);
- b. Lists of accessions, separations, and promotions of bargaining unit Employees (monthly);
- c. A list of all approved awards (annually);
- d. Affirmative Employment Plan (annually);
- e. EEO Quarterly Report;
- f. A list of all SC Employees by organization showing name, title, series and grade, and bargaining unit status (monthly);
- g. Safety Reports, as appropriate.

## **ARTICLE 30**

### **EMPLOYEE ATTENDED MEETINGS**

#### **30.1. FORMAL DISCUSSION.**

The Union shall be provided the opportunity to be represented at any formal discussion. To facilitate determining whether a meeting is formal in nature, the following criteria should be used;

- a. A representative(s) of management and at least one (1) bargaining unit Employee are present at the meeting.
- b. The meeting involves interaction with the Employees about, or an explanation of a personnel policy or practice or general working condition which applies to bargaining unit Employees.
- c. The meeting is formal, not informal in nature. A meeting is formal in nature if it is pre-scheduled, attended by management and bargaining unit Employees, has a formal agenda or a definite plan of items to be discussed or attendance by Employees is mandatory.
- d. Examples of Employee attended meetings which are considered formal are:
  - (1) All Employee Meetings
  - (2) A grievance
  - (3) Orientation

If all three criteria are met, the Employer will inform the Union before the meeting is held so that arrangements may be made for a union representative to attend.

#### **30.2. EXAMINATIONS.**

An Employee of the bargaining unit may request Union representation at any examination 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 him/her and the Employee requests representation.

- a. In such examinations where the Employee requests representation, the Employer may:
- (1) terminate the meeting to allow the Employee to arrange for representation;
  - (2) discontinue the interview; or
  - (3) offer the Employee a choice to continue the interview without representation or have no interview.

**30.3 CRIMINAL INVESTIGATION MEETINGS.**

Normally, the Employer does not conduct Criminal Investigations.

## ARTICLE 31

### UNION OFFICIAL TIME

#### 31.1 GENERAL.

The Union and the Employer commit themselves to the development of a workplace culture and climate where Union representatives and management officials have a good working relationship and mutual respect. The Employer and the Union recognize that reasonable time spent by Union officials in the conduct of Union-Management business under the Statute contributes to the development of orderly and constructive labor-management relations.

#### 31.2 OFFICIAL TIME.

- a. Union officials shall be granted official time, in reasonable amounts, necessary and in the public interest to perform contract administration and official Union duties which include, but are not limited to:
  - (1) investigating, preparing, and presenting a grievance at all steps of the grievance procedure.
  - (2) serving as a Representative and/or witness in a statutory appeal.
  - (3) representing the Union at formal meetings under 5 USC 7114(a)(2)(A).
  - (4) serving as a non-participating observer at a grievance meeting when an Employee chooses to represent himself/herself.
  - (5) receiving and investigating a complaint by reviewing relevant documents or interviewing witnesses.
  - (6) acting as a representative of the Union in examinations pursuant to 5 USC 7114 (a)(2)(B). (Weingarten)
  - (7) preparing for and/or acting as a representative in an arbitration hearing.
  - (8) preparing and presenting matters to the Federal Labor Relations Authority (FLRA), Federal Mediation and Conciliation Service (FMCS), and Federal Services Impasse Panel (FSIP). Official time will be granted for Merit Systems Protection Board (MSPB) and Equal Employment Opportunity Commission (EEOC) hearings only



if the Union representative is the designated representative.

- b. The Union will be allowed official time to prepare for negotiations under this agreement.
- c. Further, any delay in releasing an Employee which affects time frames controlled by this agreement, the time will be extended equal to the delay or by mutual agreement.
- d. Procedures
  - (1) A designated Union representative or Employee seeking Union assistance will request advance permission from the immediate supervisor for the purpose of authorized functions as stated in this agreement. The Employee/Union representative will state the planned time for departure, location to be visited, the approximate time to return and general purpose of the absence. In the event the immediate supervisor is not available, permission will be requested of the acting supervisor, or, if unavailable, the next higher level of supervisor in the management chain.
  - (2) A Union representative or Employee who wishes to engage in authorized Union representational business in another Employee's work area will obtain the permission of the supervisor of the work area involved before engaging in such activity.
  - (3) Supervisors will make reasonable efforts to accommodate requests.
  - (4) If such approval is denied, the manager or supervisor refusing such approval shall give the reasons for refusal to the representative or Employee who was so denied. This information will be committed to writing by both the Employee and the supervisor. If the Union representative is denied official time to attend an appropriate meeting, the Union representative will reschedule the meeting.
  - (5) Upon return to the work area, the steward/officer shall advise the supervisor. The steward/officer will annotate the time spent on representational functions and ensure that the time is correctly coded on the Time and Attendance Report. Codes to be used are listed each year in the agency Annual Work Plan (AWP) directives, a copy of which will be provided to the Union on a yearly basis. Currently these codes are:

- (a) LREA: Time spent in the initial, renegotiation and reopening of contract negotiations.
  - (b) LREB: Time spent in mid-term contract negotiations.
  - (c) LREC: Time spent by an Employee representative on the ongoing labor-management relationship, etc.
  - (d) LRED: Time spent by an Employee representative in representing one or more Employees in a grievance or appeal;
- (6) If a dispute arises between a designated Union representative or Employee(s) and his/her supervisor or manager concerning the use of official time, the matter will be referred to the Labor Relations Office for resolution.
  - (7) A reasonable amount of official time is the amount of time that is necessary to accomplish the specific task for which official time is requested, including a reasonable amount of time to travel to and from the task location. No overtime shall be paid for representational duties.
  - (8) The Union representative or Employee will be authorized the use of his/her work station telephone for initial contact and limited follow-up on representational matters. Time spent on the telephone will be recorded as representational time. The telephone located in the Union office will be used for all other official Union business.
  - (9) Union representatives and/or Employee(s) testifying, serving as witnesses at appropriate proceedings, will be allowed official time.

### **31.3 PREPARING DOL AND TAX FORMS.**

Designated Union officials may use official time to prepare the annual tax forms and financial report which must be filed with the Department of Labor pursuant to 5 U.S.C.7100, Standards of Conduct for Labor Organizations.

**31.4 REASONABLE OFFICIAL TIME.**

Reasonable time is defined as up to 1000 hours total for all representational duties, excluding contract negotiations, in a fiscal year. For the purposes of official time, Management will recognize thirteen (13) representatives designated by the Union. Time coded in accordance with this article will be totaled to reflect the time used for the purpose of this agreement.

## ARTICLE 32

### NEGOTIATIONS

#### 32.1 GENERAL.

Both parties to this agreement have the responsibility to conduct negotiations in good faith. Both parties agree to make reasonable efforts to resolve all differences which arise between them during the life of this agreement.

#### 32.2 SCOPE OF NEGOTIATIONS.

- a. The parties agree that the Employer will furnish the Union with proposals concerning changes of conditions of employment and provide the Union with an opportunity to negotiate.
- b. If negotiations over the changes in conditions of employment are requested by the Union, the parties are to meet or otherwise communicate at reasonable times on a timely basis. The parties will bargain in a good faith effort to reach agreement with respect to the proposed changes to conditions of employment. Upon completion of negotiations, the Employer will implement the negotiated changes. If negotiations are not requested within the designated time period, the Employer will implement the specific changes.

#### 32.3 NEGOTIATION PROCEDURES.

The following procedures shall be utilized:

- a. The Employer will furnish a proposal in writing to the Union that will state the new or modified condition of employment, the proposed date and method of implementation, and/or other aspects of the proposal.
- b. The Union will review the proposal and may request to negotiate. Such request will be in writing, will contain proposals for negotiation, and will be given to the Employer within seven (7) work days after receipt of the proposal. If the request is not received within seven (7) work days, the Employer assumes concurrence with the proposal.
- c. Negotiations shall start within seven (7) work days of the request unless otherwise agreed to, in writing, by the parties.

- d. The number of members on either negotiating committee shall not exceed three (3), unless otherwise agreed. Each negotiating team may have alternates.
- e. Names of the members on each negotiating committee will be exchanged formally by the parties in writing as soon as known before negotiations start.
- f. Impact bargaining sessions, impasse processes, negotiability appeal and preparation thereof shall be conducted on official time. Preparation time for the team shall be documented on the Time and Attendance Report to negotiations in accordance with the Agreement.
- g. Upon reaching agreement on all articles, a Memorandum of Understanding (MOU) will be prepared by Management and signed by the Employer and Union negotiating team members.
- h. The Employer will print and distribute the Memorandum of Understanding to appropriate management officials and Union representatives. The Union may, if it so desires, distribute copies of the Memorandum of Understanding to affected bargaining unit Employees.

#### **32.4 NEGOTIATION IMPASSE.**

When the parties to the agreement cannot agree on a negotiable matter and an impasse has been reached, the item shall be set aside. After all negotiable items on which agreement can be reached have been disposed of, the set aside items will be reviewed. If agreement is not reached after the final attempt at negotiations, the parties may seek the services of the Federal Mediation and Conciliation Service (FMCS). When the services of mediation do not resolve the impasse, either party may seek the services of the Federal Service Impasses Panel.

#### **32.5 NEGOTIABILITY QUESTION.**

When the Employer believes that a matter is nonnegotiable, it will so advise the other party. The Union may then request, in writing, the rationale for this belief. The Employer will reply in writing within ten (10) days. The Union has the right to proceed to the Federal Labor Relations Authority. To determine whether or not a compelling need exists (if that is the reason for the claim of nonnegotiability), the criteria set out in the Authority's regulations will be used.

**32.6 PAST PRACTICE.**

To constitute an established past practice on a condition of employment, the practice must be known and consistently followed by both parties, or followed by one and not challenged by the other for an extended period of time.

## ARTICLE 33

### LABOR-MANAGEMENT RELATIONS TRAINING

#### 33.1 UNION-SPONSORED TRAINING SESSION.

- a. The Parties recognize that regular training is necessary in the constantly changing and complex field of Federal Labor-Management Relations. The Employer agrees to grant administrative leave to Employees who are Union officials and representatives for the purpose of attending Union-sponsored and other training sessions, provided the training is related to the Employees in their capacities as Union representatives and is of mutual benefit to both parties. Administrative leave for this purpose will not exceed 225 hours per year for Union use.
- b. A written request for administrative leave will be submitted at least one (1) month or as soon as possible in advance by the Union President to the Chief, Division of Personnel, with a copy to the Employee's immediate supervisor. The request will contain information about the duration, purpose, and nature of training, and the names of Employees for which training is requested. A copy of the training brochure, if available, will also be attached to the written request. These requests will normally be granted if the proposed training meets an identified need and workload would not be seriously impacted. The Employer will not pay for tuition, travel, per diem and other expenses related to training.
- c. Records generated by attendance in class will be used to determine training hours utilized. The Union will provide the Employer with the attendance record following the training.

#### 33.2 MUTUALLY BENEFICIAL TRAINING.

- a. Union officials and employer representatives will be authorized official time or administrative leave as appropriate to attend other training deemed by both parties to be of mutual benefit. Attendance at such training will not be charged to the hours allocated for the training of Union officials and representatives.
- b. The Employer will conduct orientation for managers to this Agreement. Orientation of current bargaining unit Employees to this Agreement will be the responsibility of the Union.

## **ARTICLE 34**

### **UNION DUES WITHHOLDING**

#### **34.1 MEMBERSHIP DUES ALLOTMENT.**

The Employer has no responsibility in the withholding of Union dues. That responsibility rests with the Employee, Union and the Administrative Service Center (ASC). Membership dues will be withheld from Employees in the bargaining unit who voluntarily make such allotment to their pay.

#### **34.2 STANDARD FORMS (SF) 1187 AND 1188.**

The Union will inform its members concerning the program for the allotment of dues and the uses and availability of the appropriate authorization and revocation forms, SF-1187 and SF-1188, respectively.

#### **34.3 SUBMISSION OF SF-1187.**

Allotments for withholding Union dues must be authorized on SF-1187.

- a. Members wishing to participate in the dues withholding program may authorize a pay allotment to cover dues by submitting an SF-1187 to the Union President, who will certify that the Employee is a member in good standing in the Union.
- b. The Union President will submit the form to the ASC and retain a copy.

#### **34.4 INSUFFICIENT FUNDS.**

Union dues will not be withheld when an Employee's net salary for any pay period is insufficient to cover the dues after other legal and required deductions have been made.

#### **34.5 SUBMISSION OF SF-1188.**

A Union member may revoke his/her allotment for dues by submitting a completed and signed SF-1188 to the Union.

- a. The cancellation will not be effective, however, until the first full pay period which begins on or after the next established cancellation date of the calendar year after the cancellation is received in the payroll office.
- b. The established cancellation date is September 1.



**34.6 TERMINATION OF DUES.**

Termination of dues withholding shall be automatic when an Employee is expelled from the Union or the Union loses recognition. The Union will promptly notify the ASC in writing, when a member is expelled from the Union or no longer a member in good standing.

**34.7 TIMELY REVOCATION.**

- a. The Employee has the responsibility to assure timely revocation of his/her allotment for Union dues when he/she are promoted or assigned to a position not included in the bargaining unit represented by the Union.
- b. If the dues allotments continue and the Employee fails to notify the Union, no retroactive recovery of dues withheld shall be made. No dues shall be refunded.

## ARTICLE 35

### UNION FACILITIES AND SERVICES

#### 35.1 GENERAL FACILITIES.

- a. The Employer agrees to continue to provide the Union with the existing office space and equipment presently provided, except for the microcomputer.
- b. The Union office space shall be private and secure to assure confidentiality of records and conversations and will be used exclusively by the Union, except where security requirements of the employer conflict with this requirement. In case of emergencies, security requirements of the Employer will take precedence.

#### 35.2 COMPUTER EQUIPMENT AND SOFTWARE.

- a. The Employer will provide the Union a stand-alone 386, or larger, microcomputer for use by the Union in the conduct of official business. The computer will have an ink-jet printer and will have software consistent with the Service Center standards for word processing and spreadsheets (currently Wordperfect and Lotus 1-2-3).
- b. The Union will be allowed to use the FAX machine located in the Division of Personnel to communicate with FLRA, MSPB, and EEOC.

#### 35.3 MAIL SERVICE.

The internal mail distribution service of the Employer shall be available for reasonable use by the Union. For representational functions requiring Postal Service, the Employer will meter mail for the Union and present a monthly bill to the Union for this metered usage.

#### 35.4 BULLETIN BOARDS.

On each official bulletin board at the Employer's facilities, the Union will be provided exclusive space, eighteen (18) inches wide for the height of the bulletin board.

**35.5 INTERNAL UNION BUSINESS.**

Internal Union business, such as attending Union meetings and posting or distributing Union literature, will be conducted when the union member is in non-duty status. Union representatives will not interrupt Employees work to accomplish internal business.

**35.6 REFERENCE MATERIALS.**

The Employer agrees to provide to Union representatives and Employees access to publications such as the BLM-SC Manual, Federal Personnel Manual Handbooks, Position Classification Standards, Personnette CD-ROM system, and other publications available to the Agency.

BLM Manuals and Handbooks dealing with personnel policies and practices and working conditions and related BLM materials will be available in either the Service Center Library or Personnel.

**35.7 USE OF GOVERNMENT OWNED OR LEASED VEHICLES.**

Government-owned or leased vehicles may be used for representational functions as agreed to in the Union Rights Article.

**35.8 UNION PARKING.**

All parking available to the Service Center is under the administrative control of GSA. The Union will be provided two (2) parking places and will be responsible for placing appropriate signs signifying those spaces as reserved for the Union.

**35.9 PRINTING AND DISTRIBUTION.**

- a. The Employer will pay the cost for printing this Agreement. The Union will be provided with a copy on floppy disk. All Employees in the bargaining unit will receive a personal copy of the Agreement within thirty (30) days of the effective date.
- b. The effective date and termination date of the Agreement shall be printed on the cover.
- c. The Employer will prepare all Supplemental Agreements, Amendments, and MOU's. Thirteen (13) copies will be provided to the Union.

## ARTICLE 36

### SPACE

#### 36.1 GENERAL.

The Employer recognizes that quality of the workplace has a significant impact on the efficiency of operations. In any design or redesign of the workplace, the Employer will focus on improving quality of the workplace. A quality workplace requires efficient use of office space and attention to those factors which provide Employees adequate space to do their jobs.

- a. The Employer agrees that workspace configurations will conform to applicable safety and health codes. The Employer agrees to provide, wherever practicable, plainly equitable workspace allocations among Employees in the bargaining unit.
- b. The Employer and the Union recognize that General Services Administration (GSA) or tenant restrictions may impose limitations on space options.
- c. The Employer will notify the Union when a decision is made to reallocate space and present it with a proposal. The Union may present a counter proposal in accordance with the Negotiations Article.

The discussions should deal with all aspects of the changes being proposed by Management. The discussions should include, where appropriate, such issues as the following: size, design and location of offices and workstations; access to windows; common use space (break rooms, conference rooms, etc.); parking, furniture, carpets, paint, etc.; location of common use equipment; and storage or file space.

#### 36.2 SPACE GUIDELINES.

In designing or redesigning the workplace, the Employer will use the following guidelines:

- a. Employees will be provided sufficient space to perform the function of their position. Normally all Employees shall have no less than sixty (60) square feet of working space.
- b. Whenever possible, common-use equipment will not be located in Employee workspace.

- c. Except where the technology and methods or means of performing work dictate otherwise, bargaining unit Employees within a given functional area may decide space location.

## **ARTICLE 37**

### **NEW TECHNOLOGY**

**When new technology is proposed to be introduced into the work place which will have a significant impact on a bargaining unit Employee's ability to perform his/her task(s), the Employer will notify the Union and negotiate impact and implementation, if requested.**

## **ARTICLE 38**

### **GENERAL PROVISIONS**

#### **38.1 TOTAL QUALITY MANAGEMENT (TQM).**

Whenever the Employer proposes to implement TQM which may have an impact on the Employees in the bargaining unit, the Employer will notify the Union and bargain over the implementation of the program.

#### **38.2 PILOT PROJECTS OR DEMONSTRATION PROJECTS.**

Whenever the Employer proposes to conduct a Pilot Project or Demonstration Project at the Service Center, the Union will be notified and have the opportunity to bargain over the impact and implementation of the project.

#### **38.3 FURLOUGHS.**

When the Employer is required to furlough Employees, the Employer will inform the Union and negotiate the impact and implementation of the furlough.

#### **38.4 FIRE ASSIGNMENTS.**

Employees requesting fire assignments are voluntary. If an Employee is selected and has passed all requirements for fire assignments, the Employee will be notified if his/her services are required during the fire season. All Employees engaged on fire duty will follow all applicable rules and regulations as prescribed in the Fire Handbook.

## **ARTICLE 39**

### **GOVERNING LAWS, REGULATIONS AND OTHER PROVISIONS**

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**In the administration of all matters covered by this agreement, officials and Employees shall be governed by existing and future laws, existing government-wide regulations and future government-wide regulations on the impact and implementation.**

**If a future law requires a change in this agreement, the change will not be implemented until Management fulfills its obligation to inform the Union and offers the Union the opportunity to bargain.**

**The Employer and Union will negotiate the impact and implementation of regulations affecting conditions of employment, which are issued by BLM after the effective date of this agreement. Negotiations will commence in accordance with the Negotiations article.**

**The provisions of this agreement take precedent over any Memorandums of Understanding between the Union and the Employer and any practice being followed in the bargaining unit.**



## **ARTICLE 40**

### **DURATION AND EXTENT OF AGREEMENT**

#### **40.1 EFFECTIVE DATE AND TERM.**

The effective date of this agreement shall be the date it is signed by the Office of the Secretary of Interior or thirty (30) days after it is signed by the parties, whichever comes first, unless disapproved in accordance with law. This agreement shall remain in effect for three (3) years and will remain in effect for yearly periods thereafter, automatically renewing itself on the day after the anniversary of the termination date, unless between one hundred and five (105) days and not less than sixty (60) days before the expiration date either party gives written notice to the other party of its desire to modify the agreement. The notice must be acknowledged by the other party within ten (10) work days. Negotiations on ground rules will begin ten (10) work days following the acknowledgement.

#### **40.2 AMENDMENTS AND SUPPLEMENTS.**

This Agreement may be amended and/or supplemented when:

- a. Between sixty (60) and thirty (30) calendar days prior to the yearly anniversary date of this agreement, either party may propose not more than three (3) articles for negotiation.
- b. Such a proposal is submitted, representatives of the Employer and the Union shall meet within thirty (30) days to negotiate the requested amendment(s) or supplement(s).
- c. The enactment of a new law or regulation of appropriate authority affects the provisions of this Agreement. A proposal by either party to negotiate such amendment(s) or supplement(s) shall cite the pertinent law or regulation and the article(s) of this Agreement which are affected.

#### **40.3 EFFECTIVE DATE, MOUs, AMENDMENTS AND SUPPLEMENTS.**

MOU's will become effective on the date signed. Amendments shall become effective on the date they are approved by the Department of the Interior. Supplemental agreements will become effective on the date that they are approved by the Bureau of Land Management. They shall remain effective concurrent with the basic agreement and shall terminate when the basic agreement terminates.

**Appendix A**

**The  
Federal Service  
Labor-Management  
Relations  
Statute**

**Chapter 71 of Title 5 of the United States Code and  
Related Amendments to 5 USC 5596 (b) -  
the Back Pay Act**

**Effective January 11, 1979  
As Amended Pursuant to the 96th Congress**

**Also known as:  
Title VII of Public Law 95-454  
Civil Service Reform Act of 1978  
The "Act"  
The "Statute"**

## **FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS**

Sec. 701. So much of subpart F of part III of Title 5, United States Code, as precedes subchapter II of chapter 71 thereof is amended to read as follows:

### **"Subpart F--Labor-Management and Employee Relations**

### **"CHAPTER 71 -- LABOR-MANAGEMENT RELATIONS**

#### **"SUBCHAPTER 1 -- GENERAL PROVISIONS**

" Sec.

- "7101. Findings and purpose.
- "7102. Employees' rights.
- "7103. Definitions; application.
- "7104. Federal Labor Relations Authority.
- "7105. Powers and duties of the Authority.
- "17106. Management rights.

#### **"SUBCHAPTER II -- RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS**

"Sec.

- "7111. Exclusive recognition of labor organizations.
- "7112. Determination of appropriate units for labor organization representation.
- "7113. National consultation rights.
- "7114. Representation rights and duties.
- "7115. Allotments to representatives.
- "7116. Unfair labor practices.
- "7117. Duty to bargain in good faith; compelling need; duty to consult.
- "7118. Prevention of unfair labor practices.
- "7119. Negotiation impasses; Federal Service Impasses Panel.
- "7120. Standards of conduct for labor organizations.

#### **"SUBCHAPTER III -- GRIEVANCES, APPEALS AND REVIEW**

" Sec.

- "7121. Grievance procedures.
- "7122. Exceptions to arbitral awards.
- "7123. Judicial review; enforcement.

## **"SUBCHAPTER IV -- ADMINISTRATIVE AND OTHER PROVISIONS**

**" Sec.**

- "7131.       Official time.**
- "7132.       Subpenas.**
- "7133.       Compilation and publication of data.**
- "7134.       Regulations.**
- "7135.       Continuation of existing laws, recognitions, agreements and  
              procedures.**

## **"SUBCHAPTER I--GENERAL PROVISIONS**

### **"7101. Findings and purpose**

**"(a) The Congress finds that--**

**"(1) experience in both private and public employment indicates that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them--**

**"(A) safeguards the public interest,**

**"(B) contributes to the effective conduct of public business, and**

**"(C) facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment; and**

**"(2) the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government. Therefore, labor organizations and collective bargaining in the civil service are in the public interest.**

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

### **"7102. Employees' rights**

**"Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right. Except as otherwise provided under this chapter, such right includes the right--**

**"(1) to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and**

**"(2) to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this chapter.**

### **"7103. Definitions; application**

**"(a) For the purpose of this chapter--**

**"(1) 'person' means an individual, labor organization, or agency;**

**"(2) 'employee' means an individual--**

**"(A) employed in an agency; or**

**"(B) whose employment in an agency has ceased because of any unfair labor practice under section 7116 of this title and who has not obtained any other regular and substantially equivalent**

employment, as determined under regulations prescribed by the Federal Labor Relations Authority; but does not include--

"(i) an alien or noncitizen of the United States who occupies a position outside the United States;

"(ii) a member of the uniformed services;

"(iii) a supervisor or a management official;

"(iv) an officer or employee in the Foreign Service of the United States employed in the Department of State, the International Communications Agency, the United States International Development Cooperation Agency, the Department of Agriculture, or the Department of Commerce; or

"(v) any person who participates in a strike in violation of section 7311 of this title;

"(3) 'agency' means an Executive agency (including a non-appropriated fund instrumentality described in section 2105(c) of this title and the Veterans' Canteen Service, Veterans' Administration), the Library of Congress, and the Government Printing Office, but does not include--

"(A) The General Accounting Office;

"(B) the Federal Bureau of Investigation;

"(C) the Central Intelligence Agency;

"(D) the National Security Agency;

"(E) the Tennessee Valley Authority;

"(F) the Federal Labor Relations Authority;

or

"(G) the Federal Service Impasses Panel

"(4) 'labor organization' means an organization composed in whole or in part of employees, in which employees participate and pay dues, and which has as a purpose the dealing with an agency concerning grievances and conditions of employment, but does not include--

"(A) an organization which, by its constitution, bylaws, tacit agreement among its members, or otherwise, denies membership because of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

"(B) an organization which advocates the overthrow of the constitutional form of government of the United States;

"(C) an organization sponsored by an agency; or

"(D) an organization which participates in the conduct of a strike against the Government or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

"(5) 'dues' means dues, fees, and assessments;

"(6) 'Authority' means the Federal Labor Relations Authority described in section 7104(a) of this title;

"(7) 'Panel' means the Federal Service Impasses Panel described in section 7119(c) of this title;

"(8) 'collective bargaining agreement' means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;

**"(9) 'grievance' means any complaint--**

**"(A) by any employee concerning any matter relating to the employment of the employee;**

**"(B) by any labor organization concerning any matter relating to the employment of any employee; or**

**"(C) by any employee, labor organization, or agency concerning--**

**"(i) the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or**

**"(ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment;**

**"(10) 'supervisor' means an individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term 'supervisor' includes only those individuals who devote a preponderance of their employment time to exercising such authority;**

**"(11) 'management official' means an individual employed by an agency in a position the duties and responsibilities of which require or authorize the individual to formulate, determine or influence the policies of the agency;**

**"(12) 'collective bargaining' means the performance of the mutual obligation of the representative of any agency and the exclusive representative of employees in an appropriate unit in the agency to meet at reasonable times and to consult and bargain in a good-faith effort to reach agreement with respect to the conditions of employment affecting such employees and to execute, if requested by either party, a written document incorporating any collective bargaining agreement reached, but the obligation referred to in this paragraph does not compel either party to agree to a proposal or to make a concession:**

**"(13) 'confidential employee' means an employee who acts in a confidential capacity with respect to an individual who formulates or effectuates management policies in the field of labor-management relations;**

**"(14) 'conditions of employment' means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters--**

**"(A) relating to political activities prohibited under subchapter III of chapter 73 of this title;**

**"(B) relating to the classification of any position; or**

**"(C) to the extent such matters are specifically provided for by Federal statute;**

**"(15) 'professional employee, means--**

**"(A) an employee engaged in the performance of work--**

**"(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged**

course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities);

"(ii) requiring the consistent exercise of discretion and judgment in its performance;

"(iii) which is predominantly intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work); and

"(iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

"(B) an employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph;

"(16) 'exclusive representative' means any labor organization which--

"(A) is certified as the exclusive representative of employees in an appropriate unit pursuant to section 7111 of this title; or

"(B) was recognized by an agency immediately before the effective date of this chapter as the exclusive representative of employees in an appropriate unit--

"(i) on the basis of an election, or

"(ii) on any basis other than an election, and continues to be so recognized in accordance with the provisions of this chapter;

"(17) 'firefighter' means any employee engaged in the performance of work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment; and

"(18) 'United States' means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and any territory or possession of the United States.

"(b) (1) The President may issue an order excluding any agency or subdivision thereof from coverage under this chapter if the President determines that--

"(A) the agency or subdivision has as a primary function intelligence, counterintelligence, investigative, or national security work, and

"(B) the provisions of this chapter cannot be applied to that agency or subdivision in a manner consistent with national security requirements and considerations.

"(2) The President may issue an order suspending any provision of this chapter with respect to any agency, installation, or activity located outside the 50 states and the District of Columbia, if the President determines that



the suspension is necessary in the interest of national security. (Pub. L. 95-454, Oct. 13, 1978, 92 Stat. 1192; amended Pub. L. 96-465, Oct. 17, 1980, 94 Stat. 2168.)

**"7104. Federal Labor Relations Authority**

"(a) The Federal Labor Relations Authority is composed of three members, not more than 2 of whom may be adherents of the same political party. No member shall engage in any other business or employment or hold another office or position in the Government of the United States except as otherwise provided by law.

"(b) Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate, and may be removed by the President only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office. The President shall designate one member to serve as Chairman of the Authority.

"(c) A member of the Authority shall be appointed for a term of 5 years. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. The term of any member shall not expire before the earlier of--

"(1) the date on which the member's successor takes office, or

"(2) the last day of the Congress beginning after the date on which the member's term of office would (but for this paragraph) expire.

"(d) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.

"(e) The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

"(f) (1) The General Counsel of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, for a term of 5 years. The General Counsel shall hold no other office or position in the Government of the United States except as provided by law.

"(2) The General Counsel may--

"(A) investigate unfair labor practices under this chapter,

"(B) file and prosecute complaints under this chapter and

"(C) exercise such other powers of the Authority as the Authority may prescribe.

"(3) The General Counsel shall have direct authority over, and responsibility for, all employees in the office of General Counsel, including employees of the General Counsel in the regional offices of the Authority.

**"7105. Powers and duties of the Authority**

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

"(2) The Authority shall, to the extent provided in this chapter and in accordance with regulations prescribed by the Authority--

"(A) determine the appropriateness of units for labor organization representation under section 7112 of this title;

"(B) supervise or conduct elections to determine whether a labor organization has been elected as an exclusive representative by a majority of the employees in an appropriate unit and otherwise administer the provision of section 7111 of this title relating to the according of exclusive recognition to labor organizations;

"(C) prescribe criteria and resolve issues relating to the granting of national consultation rights under section 7113 of this title;

"(D) prescribe criteria and resolve issues relating to determining compelling need for agency rules or regulations under section 7117(b) of this title;

"(E) resolve issues relating to the duty to bargain in good faith under section 7117(c) of this title;

"(F) prescribe criteria relating to the granting of consultation rights with respect to conditions of employment under section 7117 (d) of this title;

"(G) conduct hearings and resolve complaints of unfair labor practices under section 7118 of this title;

"(H) resolve exceptions to arbitrator's awards under section 7122 of this title; and

"(I) take such actions as are necessary and appropriate to effectively administer the provisions of this chapter.

"(b) The Authority shall adopt an official seal which shall be judicially noticed.

"(c) The principal office of the Authority shall be in or about the District of Columbia, but the Authority may meet and exercise any or all of its powers at any time or place. Except as otherwise expressly provided by law, the Authority may, by one or more of its members or by such agents as it may designate, make any appropriate inquiry necessary to carry out its duties wherever persons subject to this chapter are located. Any member who participates in the inquiry shall not be disqualified from later participating in a decision of the Authority in any case relating to the inquiry.

"(d) The Authority shall appoint an Executive Director and such regional directors, administrative law judges under section 3105 of this title, and other individuals as it may from time to time find necessary for the proper performance of its functions.

"(e) (1) The Authority may delegate to any regional director its authority under this chapter--

"(A) to determine whether a group of employees is an appropriate unit;

"(B) to conduct investigations and to provide for hearings;

"(C) to determine whether a question of representation exists and to direct an election; and

"(D) to supervise or conduct secret ballot elections and certify the results thereof.

"(2) The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is

engaging in an unfair labor practice. The Authority may delegate to officers and employees appointed under subsection (d) authority to perform such duties and make such expenditures as may be necessary.

"(f) If the Authority delegates any authority to any regional director or administrative law judge to make any action pursuant to subsection (e) of this section, the Authority may upon application by any interested person filed within 60 days after the date of the action, review such action, but the review shall not, unless specifically ordered by the Authority, operate as a stay of action. The Authority may affirm, modify, or reverse any action reviewed under this subsection. If the Authority does not otherwise undertake to grant review of the action under this subsection within 60 days after the later of--

"(1) the date of the action; or

"(2) the date of the filing of any application under this subsection for review of the action; the action shall become the action of the Authority at the end of such 60-day period.

"(g) In order to carry out its functions under this chapter, the Authority may--

"(1) hold hearings

"(2) administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas as provided in section 7132 of this title; and

"(3) may require an agency or a labor organization to cease and desist from violations of this chapter and require it to take any remedial action it considers appropriate to carry out the policies of this chapter.

"(h) Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Authority may appear for the Authority and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law.

"(i) In the exercise of the function of the Authority under this title, the Authority may request from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or policy directives issued by the Office of Personnel Management in connection with any matter before the Authority.

#### **"7106. Management rights**

"(a) Subject to subsection (b) of this section, nothing in this chapter shall affect the authority of any management official of any agency--

"(1) to determine the mission, budget, organization, number of employees, and internal security practices of the agency; and

"(2) in accordance with applicable laws--

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

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

"(C) with respect to filling positions, to make selections for appointments from--

"(i) among properly ranked and certified candidates for promotion; or

"(ii) any other appropriate source; and

"(D) to take whatever actions may be necessary to carry out the agency mission during emergencies.

"(b) Nothing in this section shall preclude any agency and any labor organization from negotiating--

"(1) at the election of the agency, on the numbers, types, and grades of employees or positions assigned to any organizational subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

"(2) procedures which management officials of the agency will observe in exercising any authority under this section; or

"(3) appropriate arrangements for employees adversely affected by the exercise of any authority under this section by such management officials.

## **"SUBCHAPTER II--RIGHTS AND DUTIES OF AGENCIES AND LABOR ORGANIZATIONS**

### **"7111. Exclusive recognition of labor organizations**

"(a) An agency shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast valid ballots in the election.

"(b) If a petition is filed with the Authority--

"(1) by any person alleging--

"(A) in the case of an appropriate unit for which there is no exclusive representative, that 30 percent of the employees in the appropriate unit wish to be represented for the purpose of collective bargaining by an exclusive representative, or

"(B) in the case of an appropriate unit for which there is an exclusive representative, that 30 percent of the employees in the unit allege that the exclusive representative is no longer the representative of the majority of employees in the unit; or

"(2) by any person seeking clarification of, or an amendment to, a certification then in effect or a matter relating to representation;

the Authority shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Authority finds on the record of the hearing that a question of representation exists, the Authority shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof. An election under this subsection shall not be conducted in any appropriate unit or in any subdivision thereof within which, in the preceding 12 calendar months, a valid election under this subsection has been held.

"(c) A labor organization which--

"(1) has been designated by at least 10 percent of the employees in the unit specified in any petition filed pursuant to subsection (b) of this section;

"(2) has submitted a valid copy of a current or recently expired collective bargaining agreement for the unit; or

"(3) has submitted other evidence that it is the exclusive representative of the employees involved; may intervene with respect to a petition filed pursuant to subsection (b) of this section and shall be placed on the ballot of any election under such subsection (b) with respect to the petition.

"(d) The Authority shall determine who is eligible to vote in any election under this section and shall establish rules governing any such election, which shall include rules allowing employees eligible to vote the opportunity to choose--

"(1) from labor organizations on the ballot, that labor organization which the employees wish to have represent them; or

"(2) not to be represented by a labor organization. In any election which no choice on the ballot receives a majority of the votes cast, a runoff election shall be conducted between the two choices receiving the highest number of votes. A labor organization which receives the majority of the votes cast in an election shall be certified by the Authority as the exclusive representative.

"(e) A labor organization seeking exclusive recognition shall submit to the Authority and the agency involved a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives.

"(f) Exclusive recognition shall not be accorded to a labor organization--

"(1) if the Authority determines that the labor organization is subject to corrupt influences or influences opposed to democratic principles;

"(2) in the case of a petition filed pursuant to subsection (b)(1)(A) of this section, if there is not credible evidence that at least 30 percent of the employees in the unit specified in the petition wish to be represented for the purpose of collective bargaining by the labor organization seeking exclusive recognition;

"(3) if there is then in effect a lawful written collective bargaining agreement between the agency involved and an exclusive representative (other than the labor organization seeking exclusive recognition) covering any employees included in the unit specified in the petition, unless--

"(A) the collective bargaining agreement has been in effect for more than 3 years, or

"(B) the petition for exclusive recognition is filed not more than 105 days and not less than 60 days before the expiration date of the collective bargaining agreement; or

"(4) if the Authority has, within the previous 12 calendar months, conducted a secret ballot election of the unit described in any petition under this section and in such election a majority of the employees voting chose a labor organization for certification as the unit's exclusive representative.

"(g) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules or decisions of the Authority.

**"7112. Determination of appropriate units for labor organization**

**"(a) (1) The Authority shall determine the appropriateness of any unit. The Authority shall determine in each case whether, in order to ensure employees the fullest freedom in exercising the rights guaranteed under this chapter, the appropriate unit should be established on an agency, plant, installation, functional, or other basis and shall determine any unit to be an appropriate unit only if the determination will ensure a clear and identifiable community of interest among the employees in the unit and will promote effective dealings with, and efficiency of the operations of, the agency involved.**

**"(b) A unit shall not be determined to be appropriate under this section solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be determined to be appropriate if it includes--**

**"(1) except as provided under section 7135(a)(2) of this title, any management official or supervisor;**

**"(2) a confidential employee;**

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

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

**"(5) both professional employees and other employees, unless a majority of the professional employees vote for inclusion in the unit;**

**"(6) any employee engaged in intelligence, counterintelligence, investigative, or security work which directly affects national security; or**

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

**"(c) Any employee who is engaged in administering any provision of law relating to labor-management relations may not be represented by a labor organization--**

**"(1) which represents other individuals or indirectly with an organization which represents other individuals to whom such provision applies.**

**"(2) which is affiliated directly or indirectly with an organization which represents other individuals to whom such provision applies.**

**"(d) Two or more units which are in an agency and for which a labor organization is the exclusive representative may, upon petition by the agency or labor organization, be consolidated with or without an election into a single larger unit if the Authority considers the larger unit to be appropriate. The Authority shall certify the labor organization as the exclusive representative of the new larger unit.**

**"7113. National consultation rights**

**"(a) (1) If, in connection with any agency, no labor organization has been accorded exclusive recognition on an agency basis, a labor organization which is the exclusive representative of a substantial number of the employees of the agency, as determined in accordance with criteria**

prescribed by the Authority, shall be granted national consultation rights by the agency. National consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issues relating to any labor organization's eligibility for, or continuation of, national consultation rights shall be subject to determination by the Authority.

- "(b) (1) Any labor organization having national consultation rights in connection with any agency under subsection (a) of this section shall--
- "(A) be informed of any substantive change in conditions of employment proposed by the agency, and
  - "(B) be permitted reasonable time to present its views and recommendations regarding the changes.
- "(2) If any views or recommendations are presented under paragraph (1) of this subsection to an agency by any labor organization--
- "(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and
  - "(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.
- "(c) Nothing in this section shall be construed to limit the right of any agency or exclusive representative to engage in collective bargaining.

#### "7114. Representation rights and duties

- "(a) (1) A labor organization which has been accorded exclusive recognition is the exclusive representative of the employees in the unit it represents and is entitled to act for, and negotiate collective bargaining agreements covering all employees in the unit. An exclusive representative is responsible for representing the interests of all employees in the unit it represents without discrimination and without regard to labor organization membership.
- "(2) An exclusive representative of any appropriate unit in an agency shall be given the opportunity to be represented at--
- "(A) any formal discussion between one or more representatives of the agency and one or more employees in the unit or their representatives concerning any grievance or any personnel policy or practices or other general condition of employment; or
  - "(B) any examination of an employee in the unit by a representative of the agency in connection with an investigation if--
    - "(i) the employee reasonably believes that the examination may result in disciplinary action against the employee; and
    - "(ii) the employee requests representation.
- "(3) Each agency shall annually inform its employees of their rights under paragraph (2)(B) of this subsection.
- "(4) Any agency and any exclusive representative in any appropriate unit in the agency, through appropriate representatives, shall meet and negotiate in good faith for the purposes of arriving at a collective bargaining agreement. In addition, the agency and the exclusive represen-

tative may determine appropriate techniques, consistent with the provisions of section 7119 of this title, to assist in any negotiation.

"(5) The rights of an exclusive representative under the provision of this subsection shall not be construed to preclude an employee from--

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

"(B) exercising grievance or appellate rights established by law, rule, or regulation; except in the case of grievance or appeal procedures negotiated under this chapter.

"(b) The duty of any agency and an exclusive representative to negotiate in good faith under subsection (a) of this section shall include the obligation--

"(1) to approach the negotiations with a sincere resolve to reach a collective bargaining agreement;

"(2) to be represented at the negotiations by duly authorized representatives prepared to discuss and negotiate on any condition of employment;

"(3) to meet at reasonable times and convenient places as frequently as may be necessary, and to avoid unnecessary delays;

"(4) in the case of any agency, to furnish to the exclusive representative involved, or its authorized representative, upon request and, to the extent not prohibited by law, data--

"(A) which is normally maintained by the agency in the regular course of business;

"(B) which is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and

"(C) which does not constitute guidance, advice, counsel, or training provided for management officials or supervisors, relating to collective bargaining; and

"(5) if agreement is reached, to execute on the request of any party to the negotiation a written document embodying the agreed terms, and to take such steps as are necessary to implement such agreement.

"(c) (1) An agreement between any agency and an exclusive representative shall be subject to approval by the head of the agency.

"(2) The head of the agency shall approve the agreement within 30 days from the date the agreement is executed if the agreement is in accordance with the provisions of this chapter and any other applicable law, rule, or regulation (unless the agency has granted an exception to the provision).

"(3) If the head of the agency does not approve or disapprove the agreement within the 30-day period, the agreement shall take effect and shall be binding on the agency and the exclusive representative subject to the provisions of this chapter and any other applicable law, rule or regulation.

"(4) A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement or, if none, under regulations prescribed by the agency.



**"7115. Allotments to representatives**

**"(a) If any agency has received from an employee in an appropriate unit a written assignment which authorized the agency to deduct from the pay of the employee amounts for the payment of regular and periodic dues of the exclusive representative of the unit, the agency shall honor the assignment and make an appropriate allotment pursuant to the assignment. Any such allotment shall be made at no cost to the exclusive representative or the employee. Except as provided under subsection (b) of this section, any such assignment may not be revoked for a period of 1 year.**

**"(b) An allotment under subsection (a) of this section for the deduction of dues with respect to any employee shall terminate when--**

**"(1) the agreement between the agency and the exclusive representative involved ceases to be applicable to the employee; or**

**"(2) the employee is suspended or expelled from membership in the exclusive representative.**

**"(c) (1) Subject to paragraph (2) of this subsection, if a petition has been filed with the Authority by a labor organization alleging that 10 percent of the employees in an appropriate unit in an agency have membership in the labor organization, the Authority shall investigate the petition to determine its validity. Upon certification by the Authority of the validity of the petition, the agency shall have a duty to negotiate with the labor organization solely concerning the deduction of dues of the labor organization from the pay of the members of the labor organization who are employees in the unit and who make a voluntary allotment for such purpose**

**"(2) (A) The provision, of paragraph (1) of this subsection shall not apply in the case of any appropriate unit for which there is an exclusive representative.**

**"(B) Any agreement under paragraph (1) of this subsection between a labor organization and an agency with respect to an appropriate unit shall be null and void upon the certification of an exclusive representative of the unit.**

**"7116. Unfair labor practices**

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

**"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;**

**"(2) to encourage or discourage membership in any labor organization by discrimination in connection with hiring, tenure, promotion, or other conditions of employment;**

**"(3) to sponsor, control, or otherwise assist any labor organization, other than to furnish, upon request, customary and routine services and facilities if the services and facilities are also furnished on an impartial basis to other labor organizations having equivalent status;**

**"(4) to discipline or otherwise discriminate against an employee because**

the employee has filed a complaint, affidavit, or petition, or has given any information or testimony under this chapter;

"(5) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7) to enforce any rule or regulation (other than a rule or regulation implementing section 2302 of this title) which is in conflict with any applicable collective bargaining agreement if the agreement was in effect before the date the rule or regulation was prescribed; or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

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

"(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

"(2) to cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this chapter;

"(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;

"(4) to discriminate against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

"(5) to refuse to consult or negotiate in good faith with an agency as required by this chapter;

"(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

"(7) (A) to call, or participate in, a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations, or

"(B) to condone any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity;  
or

"(8) to otherwise fail or refuse to comply with any provision of this chapter.

Nothing in paragraph (7) of this subsection shall result in any informational picketing which does not interfere with an agency's operations being considered an unfair labor practice.

"(c) For the purpose of this chapter it shall be an unfair labor practice for an exclusive representative to deny membership to any employee in the appropriate unit represented by such exclusive representative except for failure--

"(1) to meet reasonable occupational standards uniformly required by admission, or

"(2) to tender dues uniformly required as a condition of acquiring and retaining membership.

"(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under sections 7121 (e) and (f) of this title, an employee has an option of using the negotiated grievance procedure or an appeals procedure, issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under the grievance procedure or as an unfair labor practice under this section, but not under both procedures.

"(e) The expression of any personal view, argument, opinion or the making of any statement which--

"(1) publicizes the fact of a representational election and encourages employees to exercise their right to vote in such election.

"(2) corrects the record with respect to any false or misleading statement made by any person, or

"(3) informs employees of the Government's policy relating to labor-management relations and representation, shall not, if the expression contains no threat of reprisal or force or promise of benefit or was not made under coercive conditions, (A) constitute an unfair labor practice under any provision of this chapter, or (B) constitute grounds for the setting aside of any election conducted under any provisions of this chapter.

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

"(a) (1) Subject to paragraph (2) of this subsection, the duty to bargain in good faith shall, to the extent not inconsistent with any Federal law or any Government-wide rule or regulation, extend to matters which are the subject of any rule or regulation only if the rule or regulation is not a Governmentwide rule or regulation.

"(2) The duty to bargain in good faith shall, to the extent not inconsistent with Federal law or any Governmentwide rule or regulation, extend to matters which are the subject of an agency rule or regulation referred to in paragraph (3) of this subsection only if the Authority has determined under subsection (b) of this section that no compelling need (as determined under regulations prescribed by the Authority) exists for the rule or regulation.

"(3) Paragraph (2) of the subsection applies to any rule or regulation issued by any agency or issued by any primary national subdivision of such agency, unless an exclusive representative represents an appropriate unit including not less than a majority of the employees in the issuing agency or primary national subdivision, as the case may be, to whom the rule or regulation is applicable.

"(b) (1) In any case of collective bargaining in which an exclusive representative alleges that no compelling need exists for any rule or regulation referred to in subsection (a)(3) of this section which is then in effect and which

governs any matter at issue in such collective bargaining, the Authority shall determine under paragraph (2) of this subsection, in accordance with regulations prescribed by the Authority, whether such a compelling need exists.

"(2) For the purpose of this section, a compelling need shall be determined not to exist for any rule or regulation only if--

"(A) the agency, or primary national subdivision, as the case may be, which issued the rule or regulation informs the Authority in writing that a compelling need for the rule or regulation does not exist; or

"(B) the Authority determines that a compelling need of a rule or regulation does not exist.

"(3) A hearing may be held in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall be expedited to the extent practicable and shall not include the General Counsel as party.

"(4) the agency, or primary national subdivision, as the case may be, which issued the rule or regulation shall be a necessary party at any hearing under this subsection.

"(c) (1) Except in any case to which subsection (b) of this section applies, if an agency involved in collective bargaining with an exclusive representative alleges that the duty to bargain in good faith does not extend to any matter, the exclusive representative may appeal the allegation to the Authority in accordance with the provision of this subsection.

"(2) The exclusive representative may, on or before the 15th day after the date on which the agency first makes the allegation referred to in paragraph (1) of this subsection, institute an appeal under this subsection by--

"(A) filing a petition with the Authority; and

"(B) furnishing a copy of the petition to the head of the agency.

"(3) on or before the 30th day after the date of the receipt by the head of the agency of the copy of the petition under paragraph (2)(B) of this subsection, the agency shall--

"(A) file with the Authority a statement--

"(i) withdrawing the allegation; or

"(ii) setting forth in full its reasons supporting the allegation;  
and

"(B) furnish a copy of such statement to the exclusive representative.

"(4) on or before the 15th day after the date of the receipt by the exclusive representative of a copy of a statement under paragraph (3)(B) of this subsection, the exclusive representative shall file with the Authority its response to the statement.

"(5) A hearing may be held, in the discretion of the Authority, before a determination is made under this subsection. If a hearing is held, it shall not include the General Counsel as a party.

"(6) The Authority shall expedite proceedings under this subsection to the extent practicable and shall issue to the exclusive representative and to the

agency a written decision on the allegation and specific reasons therefore at the earliest practicable date.

"(d) (1) A labor organization which is the exclusive representative of a substantial number of employees, determined in accordance with criteria prescribed by the Authority, shall be granted consultation rights by any agency with respect to any Government wide rule or regulation issued by the agency effecting any substantive change in any condition of employment. Such consultation rights shall terminate when the labor organization no longer meets the criteria prescribed by the Authority. Any issue relating to a labor organization's eligibility for, or continuation of, such consultation rights shall be subject to determination by the Authority.

"(2) A labor organization having consultation rights under paragraph (1) of this subsection shall--

"(A) be informed of any substantive change in conditions of employment proposed by the agency, and

"(B) shall be permitted reasonable time to present its views and recommendations regarding the changes.

"(3) If any views or recommendations are presented under paragraph (2) of this subsection to an agency by any labor organization--

"(A) the agency shall consider the views or recommendations before taking final action on any matter with respect to which the views or recommendations are presented; and

"(B) the agency shall provide the labor organization a written statement of the reasons for taking the final action.

#### "7118. Prevention of unfair labor practices

"(a) (1) If any agency or labor organization is charged by any person with having engaged in or engaging in an unfair labor practice, the General Counsel shall investigate the charge and may issue and cause to be served upon the agency or labor organization a complaint. In any case in which the General Counsel does not issue a complaint because the charge fails to state an unfair labor practice, the General Counsel shall provide the person making the charge a written statement of the reasons for not issuing a complaint.

"(2) Any complaint under paragraph (1) of this subsection shall contain a notice--

"(A) of the charge;

"(B) that a hearing will be held before the Authority (or any member thereof or before an individual employed by the Authority and designated for such purpose); and

"(C) of the time and place fixed for the hearing.

"(3) The labor organization or agency involved shall have the right to file an answer to the original and any amended complaint and to appear in person or otherwise and give testimony at the time and place fixed in the complaint for the hearing.

"(4) (A) Except as provided in subparagraph (B) of this paragraph, no complaint shall be issued based on any alleged unfair labor practice which occurred more than 6 months before the filing of the charge with the Authority.

"(B) If the General Counsel determines that the person filing any charge was prevented from filing the charge during the 6-month period referred to in subparagraph (A) of this paragraph by reason of--

"(i) any failure of the agency or labor organization against which the charge is made to perform a duty owed to the person, or

"(ii) any concealment which prevented discovery of the alleged unfair labor practice during the 6-month period, the General Counsel may issue a complaint based on the charge if the charge was filed during the 6-month period beginning on the day of the discovery by the person of the alleged unfair labor practice.

"(5) the General Counsel may prescribe regulations providing for informal methods by which the alleged unfair labor practice may be resolved prior to the issuance of a complaint.

"(6) The Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) shall conduct a hearing on the complaint not earlier than 5 days after the date on which the complaint is served. In the discretion of the individual or individuals conducting the hearing, any person involved may be allowed to intervene in the hearing and to present testimony. Any such hearing shall, to the extent practicable, be conducted in accordance with the provisions of subchapter II of chapter 5 of this title, except that the parties shall not be bound by rules of evidence, whether statutory, common law, or adopted by a court. A transcript shall be kept of the hearing. After such a hearing the Authority, in its discretion, may upon notice receive further evidence or hear argument.

"(7) If the Authority (or any member thereof or any individual employed by the Authority and designated for such purpose) determines after any hearing on a complaint under paragraph (5) of this subsection that the preponderance of the evidence received demonstrates that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, then the individual or individuals conducting the hearing shall state in writing their findings of fact and shall issue and cause to be served on the agency or labor organization an order--

"(A) to cease and desist from any such unfair labor practice in which the agency or labor organization is engaged;

"(B) requiring the parties to renegotiate a collective bargaining agreement in accordance with the order of the Authority and requiring that the agreement, as amended, be given retroactive effect;

"(C) requiring reinstatement of an employee with backpay in accordance with section 5596 of this title; or

**"(D) including any combination of the actions described in subparagraphs (A) through (C) of this paragraph or such other action as will carry out the purpose of this chapter.**

**If any such order requires reinstatement of an employee with backpay, backpay may be required of the agency (as provided in section 5596 of this title) or of the labor organization, as the case may be, which is found to have engaged in the unfair labor practice involved.**

**"(8) If the individual or individuals conducting the hearing determine that the preponderance of the evidence received fails to demonstrate that the agency or labor organization named in the complaint has engaged in or is engaging in an unfair labor practice, the individual or individuals shall state in writing their findings of fact and shall issue an order dismissing the complaint.**

**"(b) In connection with any matter before the Authority in any proceeding under this section, the Authority may request, in accordance with the provision of section 7105(i) of this title, from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of rules, regulations, or other policy directives issued by the Office of Personnel Management.**

**"7119. Negotiation impasses; Federal Service Impasses Panel**

**"(a) The Federal Mediation and Conciliation Service shall provide services and assistance to agencies and exclusive representatives in the resolution of negotiation impasses. The Service shall determine under what circumstances and in what manner it shall provide services and assistance.**

**"(b) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or any other third-party mediation fail to resolve a negotiation impasse--**

**"(1) either party may request the Federal Service Impasses Panel to consider the matter, or**

**"(2) the parties may agree to adopt a procedure for binding arbitration of the negotiation impasse, but only if the procedure is approved by the Panel.**

**"(c) (1) The Federal Service Impasses Panel is an entity within the Authority, the function of which is to provide assistance in resolving negotiation impasses between agencies and exclusive representatives.**

**"(2) The Panel shall be composed of a chairman and at least six other members, who shall be appointed by the President, solely on the basis of fitness to perform the duties and functions involved, from among individuals who are familiar with government operations and knowledgeable in labor-management relations.**

**"(3) Of the original members of the Panel, 2 members shall be appointed for a term of 1 year, 2 members shall be appointed for a term of 3 years, and the Chairman and the remaining members shall be appointed for a term of 5 years. Thereafter each member shall be appointed for a term of**

5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced. Any member of the Panel may be removed by the President.

"(4) the Panel may appoint an Executive Director and any other individuals it may from time to time find necessary for the proper performance of its duties. Each member of the Panel who is not an employee as defined in section 2105 of this title) is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of basic pay then currently paid under the General Schedule for each day he is engaged in the performance of official business of the Panel, including travel time, and is entitled to travel expenses as provided under section 5703 of this title.

"(5) (A) The Panel or its designee shall promptly investigate any impasse presented to it under subsection (b) of this section. The Panel shall consider the impasse and shall either--

"(i) recommend to the parties procedures for the resolution of the impasse; or

"(ii) assist the parties in resolving the impasse through whatever methods and procedures, including factfinding and recommendations, it may consider appropriate to accomplish the purpose of this section.

"(B) If the parties do not arrive at a settlement after assistance by the Panel under subparagraph (A) of this paragraph, the Panel may--

"(i) hold hearings;

"(ii) administer oaths, take the testimony or deposition of any person under oath, and issue subpoenas as provided in section 7132 of this title; and

"(iii) take whatever action is necessary and not inconsistent with this chapter to resolve the impasse.

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

#### **"7120. Standards of conduct for labor organizations**

"(a) An agency shall only accord recognition to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b) of this section, an organization is not required to prove that it is free from such influences if it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for--

"(1) the maintenance of democratic procedures and practices including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual



members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

"(2) the exclusion from office in the organization of persons affiliated with communist or other totalitarian movements and persons identified with corrupt influences;

"(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

"(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

"(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in subsection (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles if there is reasonable cause to believe that--

"(1) the organization has been suspended or expelled from, or is subject to other sanction, by a parent labor organization, or federation of organizations with which it had been affiliated, because it had demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a) of this section; or

"(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

"(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with an Assistant Secretary of Labor for Labor-Management Relations, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

"(d) The Assistant Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such actions as he considers appropriate to carry out the policies of this section.

"(e) This chapter does not authorize participation in the management of a labor organization or acting as a representative of a labor organization by a management official, a supervisor, or a confidential employee, except as specifically provided in this chapter, or by an employee if the participation or activity would result in a conflict or apparent conflict of interest or would otherwise be incompatible with law or with the official duties of the employee.

"(f) In the case of any labor organization, which by omission or commission has willfully and intentionally, with regard to any strike, work stoppage, or slowdown, violated section 7116(b)(7) of this title, the Authority shall, upon an appropriate

finding by the Authority of such violation--

"(1) revoke the exclusive recognition status of the labor organization, which shall then immediately cease to be legally entitled and obligated to represent employees in the unit; or

"(2) take any other appropriate disciplinary action.

### "SUBCHAPTER III--GRIEVANCES

#### "7121. Grievance procedures

"(a) (1) Except as provided in paragraph (2) of this subsection, any collective bargaining agreement shall provide procedures for the settlement of grievances, including questions of arbitrability. Except as provided in subsections (d) and (e) of this section, the procedures shall be the exclusive procedures for resolving grievances which fall within its coverage.

"(2) Any collective bargaining agreement may exclude any matter from the application of the grievance procedures which are provided for in the agreement.

"(b) Any negotiated grievance procedure referred to in subsection (a) of this section shall--

"(1) be fair and simple,

"(2) provide for expeditious processing, and

"(3) include procedures that--

"(A) assure an exclusive representative the right, in its own behalf or on behalf of any employee in the unit represented by the exclusive representative, to present and process grievances;

"(B) assure such an employee the right to present a grievance on the employee's own behalf, and assure the exclusive representative the right to be present during the grievance proceeding; and

"(C) provide that any grievance not satisfactorily settled under the negotiated grievance procedure shall be subject to binding arbitration which may be invoked by either the exclusive representative or the agency.

"(c) The preceding subsections of this section shall not apply with respect to any grievance concerning--

"(1) any claimed violation of subchapter III of chapter 73 of this title (relating to prohibited political activities);

"(2) retirement, life insurance, or health insurance;

"(3) a suspension or removal under section 7532 of this title;

"(4) any examination, certification, or appointment;

or

"(5) the classification of any position which does not result in the reduction in grade or pay of an employee.

"(d) An aggrieved employee affected by a prohibited personnel practice under section 2302(b)(1) of this title which also falls under the coverage of the negotiated grievance procedure may raise the matter under a statutory procedure or the negotiated procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise the matter under either a

statutory procedure or the negotiated procedure at such time as the employee timely initiated an action under the applicable statutory procedure or timely files a grievance in writing, in accordance with the provisions of the parties' negotiated procedure, whichever event occurs first. Selection of the negotiated procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board to review the final decision pursuant to section 7702 of this title in the case of any or, where applicable, to request the Equal Employment Opportunity Commission to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the Equal Employment Opportunity Commission.

"(e) (1) Matters covered under sections 4303 and 7512 of this title which also fall within the coverage of the negotiated grievance procedure may, in the discretion of the aggrieved employee, be raised either under the appellate procedures of section 7701 of this title or under the negotiated grievance procedure, but not both. Similar matters which arise under other personnel systems applicable to employees covered by this chapter may, in the discretion of the aggrieved employee, be raised either under the appellate procedures, if any, applicable to those matters, or under the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise a matter either under the applicable appellate procedures or under the negotiated grievance procedure at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing in accordance with the provisions of the parties' negotiated grievance procedure, whichever event occurs first.

"(2) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, an arbitrator shall be governed by section 7701(c)(1) of this title, as applicable.

"(f) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with this section, section 7703 of this title pertaining to judicial review shall apply to the award of an arbitrator in the same manner and under the same conditions as if the matter had been decided by the Board. In matters under sections 4303 and 7512 of this title similar to those covered which arise under other personnel systems and which an aggrieved employee has raised under the negotiated grievance procedure, judicial review of an arbitrator's award may be obtained in the same manner and on the same basis as could be obtained of a final decision in such matters raised under applicable appellate procedures.

#### "7122. Exceptions to arbitral awards

"(a) Either party to arbitration under this chapter may file with the Authority an exception to any arbitrator's award pursuant to the arbitration (other than an award relating to a matter described in section 7121(f) of this title). If upon review the Authority finds that the award is deficient--

"(1) because it is contrary to any law, rule, or regulation;

"(2) on other grounds similar to those applied by Federal courts in private sector labor-management relations; the Authority may take such action and make such recommendations concerning the award as it considers necessary, consistent with applicable laws, rules, or regulations.

"(b) If no exception to an arbitrator's award is filed under subsection (a) of this section during the 30-day period beginning on the date the award is served on the party, the award shall be final and binding. An agency shall take the actions required by an arbitrator's final award. The award may include the payment of backpay (as provided in section 5596 of this title).

**"7123. Judicial review; enforcement**

"(a) Any person aggrieved by any final order of the Authority other than an order under--

"(1) section 7122 of this title (involving an award by an arbitrator), unless the order involves an unfair labor practice under section 7118 of this title, or

"(2) section 7112 of this title (involving an appropriate unit determination), may, during the 60-day period beginning on the date on which the order was issued, institute an action for judicial review of the Authority's order in the United States court of appeals in the circuit in which the person resides or transacts business or in the United States Court of Appeals for the District of Columbia.

"(b) The Authority may petition any appropriate United States court of appeals for the enforcement of any order of the Authority and for appropriate temporary relief or restraining order.

"(c) Upon the filing of a petition under subsection (a) of this section for judicial review or under subsection (b) of this section for enforcement, the Authority shall file in the court the record in the proceedings, as provided in section 2112 of title 28. Upon the filing of the petition, the court shall cause notice thereof to be served to the parties involved, and thereupon shall have jurisdiction of the proceeding and of the question determined therein and may grant any temporary relief (including a temporary restraining order) it considers just and proper, and may make and enter a decree affirming and enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the Authority. The filing of a petition under subsection (a) or (b) of this section shall not operate as a stay of the Authority's order unless the court specifically orders the stay. Review of the Authority's order shall be on the record in accordance with section 706 of this title. No objection that has not been urged before the Authority, or its designee, shall be considered by the court, unless the failure or neglect to urge the objection is excused because of extraordinary circumstances. The findings of the Authority with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any person applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce the evidence in the hearing before the Authority, or its designee, the court may order the additional evidence to be taken before the Authority, or its designees, and to be made a part of the record. The Authority may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed. The Authority shall file its modified or new findings, which, with respect to questions of

fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The Authority shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28.

"(d) The Authority may, upon issuance of a complaint as provided in section 7118 of this title charging that any person has engaged in or is engaging in an unfair labor practice, petition any United States district court within any district in which the unfair labor practice in question is alleged to have occurred or in which such person resides or transacts business for appropriate temporary relief (including a restraining order). Upon the filing of the petition, the court shall cause notice thereof to be served upon the person, and thereupon shall have jurisdiction to grant any temporary relief (including a temporary restraining order) it considers just and proper. A court shall not grant any temporary relief under this section if it would interfere with the ability of the agency to carry out its essential functions or if the Authority fails to establish probable cause that an unfair labor practice is being committed.

#### "SUBCHAPTER IV--ADMINISTRATIVE AND OTHER PROVISIONS

##### "7131. Official time.

"(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceedings, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

"(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a non-duty status.

"(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

"(d) Except as provided in the preceding subsections of this section--

"(1) any employee representing an exclusive representative, or

"(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative, shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.

**"7132. Subpenas**

**"(a) Any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under section 3105 of this title, and any employee of the Authority designated by the Authority may--**

**"(1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States; and**

**"(2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence. No subpoena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management.**

**"(b) In the case of contumacy or failure to obey a subpoena issued under subsection (a)(1) of this section, the United States district court for the judicial district in which the person to whom the subpoena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.**

**"(c) Witnesses (whether appearing voluntarily or under which subpoena) shall be paid the same fee and mileage allowances are paid subpoenaed witnesses in the courts of the United States.**

**"7133. Compilation and publication of data**

**"(a) The Authority shall maintain a file of its proceedings and copies of all available agreements and arbitration decisions, and shall publish the texts of its decisions and the actions taken by the Panel under section 7119 of this title.**

**"(b) All files maintained under subsection (a) of this section shall be open to inspection and reproduction in accordance with the provisions of sections 552 and 552a of this title.**

**"7134. Regulations**

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

**"7135. Continuation of existing laws, recognitions, agreements, and procedures**

**"(a) Nothing contained in this chapter shall preclude--**

**"(1) the renewal or continuation of an exclusive recognition, certification of an exclusive representative, or a lawful agreement between an agency and an exclusive representative of its employees, which is entered into before the effective date of this chapter; or**

**"(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this chapter.**

**"(b) Policies, regulations, and procedures established under and decisions issued under Executive orders 11491, 11616, 11636, 11787, and 11838, or under any other Executive order, as in effect on the effective date of this chapter, shall remain in full force and effect until revised or revoked by the President, or unless superseded by specific provisions of this chapter or by regulations or decisions issued pursuant to this chapter."**

## BACKPAY IN CASE OF UNFAIR LABOR PRACTICE AND GRIEVANCES

SEC. 702. Section 5596(b) of title 5, United States code is amended to read as follows:

"(b) (1) An employee or an agency who, on the basis of a timely appeal or an administrative determination (including a decision relating to an unfair labor practice or a grievance) is found by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have been affected by an unjustified or unwarranted personnel action which has resulted in the withdrawal or reduction of all or part of the pay, allowances, or differentials of the employee--

"(A) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect--

"(i) an amount equal to all or any part of the pay, allowances, or differentials, as applicable which the employee normally would have earned or received during the period if the personnel action had not occurred, less any amounts earned by the employee through other employment during that period; and

"(ii) reasonable attorney fees related to the personnel action which, with respect to any decision relating to an unfair labor practice or a grievance processed under a procedure negotiated in accordance with chapter 71 of this title, shall be awarded in accordance with standards established under section 7701(g) of this title; and

"(B) for all purposes, is deemed to have performed service for the agency during that period, except that--

"(i) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

"(ii) annual leave credited under clause (i) of this subparagraph but unused and still available to the employee under regulations prescribed by the office shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

"(2) This subsection does not apply to any reclassification action nor authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

"(3) For the purpose of this subsection, 'grievance' and 'collective bargaining agreement' have the meanings set forth in section 7103 of this title, 'unfair labor practice' means an unfair labor practice described in section 7116 of this title, and 'personnel action' includes the omission or failure to take an action or confer a benefit."



## **Appendix B**

### **DEFINITIONS AND GLOSSARY**

**-A-**

**ADVANCE NOTICE:** In general, an announcement of an intention to carry out a certain action, given to an affected or interested party in sufficient time to prepare for the action.

**ADVERSE ACTION:** An official personnel action, usually taken for disciplinary reasons, which adversely affects an Employee and is of a severity such as suspension for more than 14 days, reduction in grade, or removal. For most Federal employees, an appeal system established by statute exists and the employee may choose to use the statutory procedure or, if coverage under the contract permits, the negotiated procedure, but not both.

**AFFIRMATIVE EMPLOYMENT PLAN:** A written program to actively eliminate employment standards and practices which tend to discriminate on the grounds of race, creed, sex, national origin or other lawful criteria.

**AGENCY:** For purposes of this contract, agency refers to the Bureau of Land Management, Department of Interior.

**AGREEMENT:** See Collective Bargaining Agreement.

**ARBITRATION:** Method of settling employment disputes through recourse to an impartial third party whose decision is usually final and binding.

**ARBITRATOR:** An impartial third party to whom disputing parties submit their differences for decision (award).

**ARBITRABILITY:** Refers to whether a given issue is subject to arbitration under the negotiated agreement.

**ATTRITION:** A process of relying on voluntary quits, deaths and retirements to reduce an employers labor force instead of resorting to dismissal of workers.

**AUTHORITY:** See Federal Labor Relations Authority.

**AWARD:** In Labor-Management arbitration, the final decision of an arbitrator, binding on both parties.

**-B-**

**BACK PAY:** Pay awarded an employee for compensation lost due to an unjustified management action.

**Bargaining:** See Collective Bargaining.

**BARGAINING RIGHTS:** Legally recognized right of the labor organization to represent employees in negotiations with employers.

**BARGAINING UNIT:** All non-professional General Schedule (GS) and Wage Grade (WG), full time and part time employees of the Service Center.

**BINDING ARBITRATION:** Method of settling employment disputes through recourse to an impartial third party (an arbitrator). The arbitrator's decision is usually final and binding. In the Federal Government binding arbitration is required as the final step in a negotiated grievance procedure. It may also be used to settle impasses if its use is approved by the Federal Labor Relations Authority.

**BLM-SC:** Bureau of Land Management, Service Center

**CALL-BACK OVERTIME:** Irregular or occasional overtime work performed by an employee on a day when work was not scheduled for him or for which he is required to return to his place of employment, is deemed at least two (2) hours in duration for the purpose of premium pay, either in money or compensatory time off.

**CIVIL SERVICE REFORM ACT OF 1978 (CSRA):** Legislation enacted in October 1978 for the purpose of reforming and upgrading the Federal Civil Service System and improving efficiency and quality of public service. The CSRA gives guaranteed protection of the basic rights of Federal employees. In the Labor-Management relations area, CSRA is important because it gives Federal employees legal basis for their right to organize, bargain collectively, and participate through labor unions in decisions which affect their working conditions.

**COLLECTIVE BARGAINING (COLLECTIVE NEGOTIATIONS, NEGOTIATIONS, NEGOTIATION OF AGREEMENT):** The performance of the mutual obligations of the Employer and the exclusive representative to meet at reasonable times, to consult and bargain in good faith, and to execute a written agreement with respect to terms and conditions of employment. This obligation does not compete either party to agree to proposals or make concessions.

**COLLECTIVE BARGAINING AGREEMENT (AGREEMENT, CONTRACT, BARGAINING CONTRACT, NEGOTIATED AGREEMENT):** A written agreement between an employer and a labor organization, usually for a definite term, defining conditions of employment, rights of employees and labor organizations, and procedures to be followed in settling disputes or handling issues that arise during the life of the agreement.

**COMPELLING NEED:** In the Federal government, a basis upon which rules or regulations issued by an agency or a primary national subdivision of any agency may serve as a bar to negotiations with a labor organization. A labor organization may challenge the agency's interpretation of compelling need before the Federal Labor Relations Authority (FLRA). In its regulations, FLRA prescribes illustrative criteria for determining compelling need.

**COMPETITIVE AREA:** The boundaries within which employees compete for retention under reduction-in-force procedures. Employees in a competitive area compete only with each other; they do not compete with employees in another competitive area.

**CONCILIATION:** See Mediation.

**CONFIDENTIAL EMPLOYEE:** Employee who acts in a confidential capacity with respect to an individual who formulates or administers management policies in the field of labor-management relations.

**CONDITIONS OF EMPLOYMENT (WORKING CONDITIONS):** In the Federal sector, this term means personnel policies, practices and matters whether established by rule, regulation or otherwise, affecting working conditions.

**CONSULTATION:** Meaningful discussion to review a management proposal with the opportunity to impact and implementation bargain.

**CONTRACTING OUT:** Practice of having certain steps in a work function performed by outside contractors, using their own work forces.

**CONTRACT (AGREEMENT, COLLECTIVE BARGAINING AGREEMENT, NEGOTIATED AGREEMENT):** See Collective Bargaining Agreement.

**CREDITED SERVICES:** Years of employment counted for seniority. See Seniority.

**CREDIT HOURS:** Any hours, within a flexible work schedule which are in excess of an employee's work requirement and which the employee elects to work to as to vary the length of the work week or a work day.

**CRITICAL ELEMENT:** A component of a position's functions consisting of one or more duties and responsibilities which contribute toward accomplishing organizational goals and objectives and which is of such importance that unacceptable performance on the element would result in unacceptable performance in the position.

**-D-**

**DETAIL:** A detail is when an employee, upon direction, leaves his/her regular position and its duties and temporarily assumes the duties of another position.

**DISCIPLINARY ACTIONS:** Management initiated actions designed to correct errant employee behavior.

**DISPUTE:** Any disagreement between an employer and a labor organization requiring resolution; for example, the inability to agree on contract terms or grievances.

**DOWNGRADING (DEMOTION, REDUCTION IN GRADE):** Assignment of workers to tasks or jobs with lower rates of pay.

**DUES ALLOTMENT (DUES WITHHOLDING, DUES CHECK-OFF):** Practice whereby the employer, by agreement with the union (and upon written authorization from the employee where required by law or agreement), regularly withholds union dues from employee's wages and transmits these funds to the union. In the Federal government dues allotment occurs without charge to the employee or the union.

-E-

**EMPLOYEE:** An individual employed in an agency who is included in the bargaining unit as described in Article 1.

**EMPLOYEE COMPLAINT:** A discussion between an employee and a union representative in advance of a determination as to a final course of action by the employee, and a management official if appropriate.

**THE EMPLOYER or MANAGEMENT:** The Service Center, Bureau of Land Management, Department of the Interior.

**EXCLUSIVE RECOGNITION/REPRESENTATION:** In the Federal government, the status conferred on a labor organization which (1) receives a majority of votes cast in a representation election and (2) is certified by the Federal Labor Relations Authority (FLRA) to represent all employees in an appropriate unit. Certification by the FLRA means that only this particular union is authorized to act for the employees in the bargaining unit and negotiating agreements on their behalf. The labor organization enjoying this status is known as the exclusive representative.

**EXPIRATION DATE:** Formal termination date established in a collective bargaining agreement or the earliest date at which the agreement may be terminated.

-F-

**FEDERAL LABOR RELATIONS AUTHORITY (FLRA):** An administrative body empowered by Title VII of the Civil Service Reform Act of 1978 to provide leadership in Federal service labor-management relations matters by establishing policies and guidance.

**FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS):** An independent Federal agency which provides mediators to assist the parties involved in negotiations, or in a labor dispute, in reaching a settlement; provides lists of suitable arbitrators on requests; and engages in various types of "preventive mediation."

**FEDERAL SERVICE IMPASSES PANEL (FSIP):** Organizational entity within the FLRA, which resolves bargaining impasses in the Federal service. The Panel may recommend procedures, including arbitration, for the settling of impasses or it may direct settlement of the impasse itself.

**FORMAL DISCUSSION:** 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 conditions of employment.

-G-

**GENERAL WORKING CONDITIONS:** Pertaining to, or applicable to, each and/or all bargaining unit employees and/or employees within the work unit.

**GOOD FAITH BARGAINING:** Defined by law as the obligation to approach negotiations with a sincere resolve to reach a collective bargaining agreement; to be represented by properly authorized representatives who are prepared to discuss and negotiate; to meet at reasonable times and convenient places as frequently as necessary; to avoid unnecessary delays in negotiations; and in the case of the agency, to furnish, insofar as possible, information requested by the union.

**GRIEVANCE:** Any complaint by an employee or by any labor organization relating to the employment of the employee(s). Also any complaint concerning the effect or interpretation or claim of breach of a collective bargaining agreement; or any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment. Whether a complaint is formally recognized and handled as a grievance depends on whether the subject of the complaint is covered under the grievance procedure.

**GRIEVANCE PROCEDURE:** See Negotiated Grievance Procedure.

-H-

**HIGHER AUTHORITY:** Normally, an authority at the BLM or DOI level.

-I-

**IMPASSE:** The inability of representatives of the Employer and the Union to arrive at a mutually agreeable decision concerning negotiable matters through the negotiation process.

**INVESTIGATORY EXAMINATION:** Any examination of an employee in the unit by a representative of the agency in connection with any investigation.

**-M-**

**MANAGEMENT:** Broad term used to define any individual who represents the agency in an official capacity, most commonly, supervisors and managers.

**MEDIATION:** A procedure by which an impartial third party (a mediator) is used to settle disputes. The mediator assists in resolving the dispute by attempting to find a solution satisfactory to both parties in a dispute but renders no binding decisions. In the Federal government, mediation is required before impasses can be referred to the Federal Service Impasses Panel.

**-N-**

**NEGOTIABILITY:** Negotiability refers to whether a given topic is subject to bargaining between the agency and the union. The Federal Labor Relations Authority makes final decisions on whether a subject is negotiable.

**NEGOTIABILITY DISPUTE:** A disagreement between the parties as to the negotiability of an item.

**NEGOTIATION:** The process of offers and counter-offers on a proposal to reach a mutual agreement.

**NEGOTIATED GRIEVANCE PROCEDURE:** The systematic procedure agreed to by the negotiating parties for the resolution of grievances. The negotiated grievance procedure is applicable only to employees in the bargaining unit.

**NON-DUTY TIME:** Before/after working hours and at lunch time.

-O-

**OFFICIAL TIME:** Duty time that is granted to a union representative to perform designated functions without loss of pay or charge to that employee's leave account.

**ON-THE-CLOCK:** Paid time.

**OVERTIME:**

**Fixed Schedule - Overtime** work means work in excess of 8 hours in a day or in excess of forty (40) hours in an administrative work week that is officially ordered and approved and is performed by an employee.

**First Forty - Overtime** means work in excess of forty (40) hours in an administrative work week that is officially ordered and approved and performed by an employee.

**Flexible Schedule Programs - Overtime** means all hours in excess of eight (8) hours in a day or forty (40) hours in a week which are officially ordered in advance but does not include credit hours.

**Compressed Schedule Programs - Overtime** means any hours in excess of those specified hours which constitute the compressed schedule.

-P-

**PANEL:** See Federal Service Impasses Panel.

**PAST PRACTICE:** To constitute a past practice, the practice must be known and consistently followed by both parties or followed by one and not challenged by the other for an extended period of time.

**PERFORMANCE STANDARDS:** A statement of the expectations or requirements established for a critical or required element at a particular rating level.



**-R-**

**RATING PERIOD:** The period of time for which an employee's performance will be reviewed.

**RECOGNITION:** Employer acceptance of a labor organization as the one authorized to negotiate, usually for all members of a negotiating unit.

**REOPENING CLAUSE:** Clause in a collective agreement stating the time or the circumstances under which negotiations can be requested prior to the expiration of the contract.

**REPRESENTATIONAL ACTIVITIES:** Activities performed by a union (or the union's representative) on behalf of the employees the union represents. Such activities include meeting and negotiating with management, investigating problems, handling grievances, and policing the terms of the collective bargaining agreement.

**-S-**

**STATUTE:** A law.

**SUPERVISOR:** In the Federal service, means an individual having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall suspend, discipline or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment.

**SUPPLEMENTAL AGREEMENT:** An agreement negotiated subsequent to the basic or initial agreement.

**SUSPENSION:** Form of disciplinary action of a temporary nature, as in removing a worker from his job for a stipulated time with the consequent loss of pay.

**-T-**

**THIRD PARTY PROCESS:** Refers to a method of settling a dispute through recourse to an impartial party.

**TOUR OF DUTY:** Term applied to whatever shift of which an employee is working.

**TOTAL QUALITY MANAGEMENT (TQM):** A comprehensive customer focused management philosophy for improving the quality of an organizations products and services.

-U-

**UNFAIR LABOR PRACTICE:** Action by either an employer or union which violates the provisions of Title VII of the CSRA.

**UNILATERAL ACTION:** Implementation of management decisions concerning personnel policies and matters affecting working conditions which were developed without union input. Unilateral actions in areas requiring consultation or negotiation are subject to unfair labor practice charges.

**THE LOCAL UNION:** The National Federation of Federal Employees, NFFE Local 1945.

**UNION OFFICIAL and/or UNION REPRESENTATIVE:** The duly elected or appointed official of the Union, including appropriately designated stewards.

**UNIT:** See Bargaining Unit.

**USE OF OFFICIAL TIME:** The arrangement for a Union Representative to use official time. Normally arranged by contract provisions or management directive to supervisors.

-W-

**WAGE SYSTEM EMPLOYEES:** Federal government employees, in trades and labor occupations, whose rates of pay are determined on the basis of prevailing rates for comparable work in the area.

**WEINGARTEN RIGHT:** Name taken from a private sector case. Refers to the right of a bargaining unit employee to be represented by the union under specific circumstances. That right exists when (1) the employee is examined in an investigation (an investigatory examination) conducted by an agency representative, (2) the employee reasonably believes disciplinary action against him or her may result, and (3) the employee requests union representation. 5 U.S.C. 7114 (a)(2)(B)

**WORKING CONDITIONS:** See Conditions of Employment.

**WORK HOURS:** The hours during which the employer normally provides official services.

## 1220 - PAPERWORK MANAGEMENT

The following are personnel management topics from the 1220 BLM Manual. This listing in no way incorporates the BLM manual 1220 into the contract. The list is to be used solely for information purposes.

## 1400-000 - PERSONNEL MANAGEMENT

1400-240-249 - (Unassigned)

\*\*\*\*\*  
The 1400 series of the Index is double coded because the Bureau's coding for this subject area is combined with the coding for the Federal Personnel Manual (FPM). The Bureau's code for Personnel Management is 1400; the additional three numbers for each subject represents the FPM code for that subject.  
\*\*\*\*\*

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1400-295 - Personnel Forms and Documents\*

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1. Establishing Effective Dates for Appointments

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-1220 - PAPERWORK MANAGEMENT

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- .4 Rehire Authorities
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