

Agreement
between the
Oak Ridge Office
and the
**Office of Scientific and
Technical Information**
U.S. Department of Energy
and the
Local No. 2001
Office and Professional Employees
International Union (AFL-CIO)

April 2009

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PART I

LABOR-MANAGEMENT RELATIONSHIP

PREAMBLE

This Agreement constitutes a collective Agreement between the United States Department of Energy's (DOE's) Oak Ridge Office (ORO) and the Office of Scientific and Technical Information (OSTI), hereinafter referred to collectively as *the Employer or Management*; and the Office and Professional Employees International Union, Local No. 2001, AFL-CIO, hereinafter referred to as *Local 2001, OPEIU, or the Union*; together they are referred to as *the Parties*.

The Union and the Employer agree that the objectives of this Agreement are as follows:

1. To define the Agreement between the Parties and specify certain rights and responsibilities of the Parties hereto;
2. To state policies, methods, and procedures by which the Parties will conduct their working relationships and identify subject matter of proper mutual concern to the Parties hereto;
3. To provide for employee participation in the implementation of personnel policies and the formulation and implementation of local personnel programs, practices, and procedures affecting the conditions of their employment through their Union;
4. To facilitate the adjustment of grievances, complaints, disputes; and differences relating to matters deemed appropriate under 5 U.S.C. Chapter 71;
5. To promote and improve the morale of bargaining unit employees;
6. To promote better working conditions including environment, health and welfare.

“(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 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 settlement 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.” (5 U.S.C. 7101 (a))

ARTICLE 1 RECOGNITION AND COVERAGE

SECTION 1 SCOPE OF RECOGNITION

On March 6, 1981, the Federal Labor Relations Authority (FLRA), Region 4, in Case 4 R077, certified OPEIU as the exclusive representative of a unit including all professional and nonprofessional employees of the DOE's ORO and OSTI. Individuals not covered by this Agreement include employees represented by other labor organizations in exclusive units and employees described in 5 U.S.C. 7112(b),(2),(3),(4),(6) and (7) which include Management Officials; confidential employees; supervisors; employees engaged in intelligence, counterintelligence, investigative or security work which directly affects national security; and employees engaged in Federal personnel work in other than a purely clerical capacity.

In the event the certification of representation is amended, the FLRA will determine unit coverage.

SECTION 2 COVERAGE OF AGREEMENT

The terms and conditions of this Agreement apply only to positions within the bargaining unit and to employees who occupy those positions. When the term "employee" is used in this Agreement, it is understood that it refers to the definition in 5 U.S.C. 7103.

SECTION 3 OFFICIAL AGENCY DOCUMENT

This Agreement is an official agency document and reading it in operational areas is permitted.

ARTICLE 2 GOVERNING LAWS AND REGULATIONS

SECTION 1 PRECEDENCE OF LAWS AND REGULATIONS

A. Laws and Government- Wide Regulations

In the administration of all matters covered by this Agreement, the Parties hereto are governed by existing or future laws and government-wide regulation. The Parties recognize their obligation to engage in impact and implementation bargaining with respect to future laws and future government-wide regulations. This will be done in accordance with applicable laws, rules, and regulations and prior to implementation of any changes.

B. DOE, ORO/OSTI-Wide Regulations

Applicable published DOE Orders which were already in existence at the time of the effective date of this agreement shall remain in effect. Any new or revised directives will be announced through the DOE Directives Explorer System. The Union will be given a specific e-mail address from which to obtain these directives. The Union will notify Management no later than 30 days after the date the notification is issued by the Directives Explorer System if the Union wishes to meet and discuss the directive with Management. The Union will provide specific proposals or interest-based bargaining issues regarding changes which conflict with provisions of this Agreement but which are not required by law or government-wide regulations within 15 workdays after meeting with Management or on a date agreed to by the Parties. If the Union raises any objection, the Agreement will be controlling; therefore, Management will not make any changes until after negotiations are completed. Failure on the part of the Union to notify Management of its desire to meet and/or submit proposals or interest-based bargaining issues will constitute acceptance of the changes on the part of the Union and the changes will automatically become effective.

C. Non-DOE, ORO/OSTI Laws, Regulations, etc.

Amendments to this Agreement may be required by changes in applicable laws, executive orders, judicial decisions by a court of appropriate jurisdiction, or government-wide regulations made after the effective date of this Agreement. The Principal Management Contact will refer such changes to the Union within 10 workdays of the receipt of such change. The Union will notify Management within 10 workdays of receiving the notification if the Union wishes to meet and discuss the issue(s) with Management. Failure on the part of the Union to notify Management of its desire to meet and or submit proposals or interest-based bargaining issues will constitute acceptance of the changes on the part of the Union and the changes will automatically become effective. Any changes or amendments to this Agreement which are bargained and agreed to pursuant to this Section will be duly executed by the Parties and will become an integral part of this Agreement subject to all the terms and conditions of this Agreement.

D. Separability

Matters negotiated by the Parties pursuant to this Agreement remain in effect until modified or abolished by mutual consent or otherwise in keeping with the provisions of this Agreement. The Employer may depart from such provisions when mandated by Federal law or regulation or in accordance with other provisions of this Agreement; such departures are to be only from the part(s) *of* the Agreement which are affected by such laws, regulations, or provisions. Other provisions of the Agreement not affected shall remain in effect.

SECTION 2 AGREEMENT GOVERNS

Where ORO/OSTI locally implemented regulations conflict with tile provisions of this Agreement, the Agreement will be controlling except where such regulations are mandated by laws or the regulations of higher authority.

ARTICLE 3 MERIT PRINCIPLES

SECTION 1 MERIT SYSTEM PRINCIPLES

The following are the Merit System Principles from 5 U.S.C. 2301:

- A. Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society; selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills after fair and open competition which assures that all receive equal opportunity.
- B. All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition and with proper regard for their privacy and constitutional rights.
- C. Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sectors, and appropriate incentives and recognition should be provided for excellence in performance.
- D. All employees should maintain high standards of integrity, conduct, and concern for the public interest.
- E. The Federal work force should be used efficiently and effectively.
- F. Employees should be retained on the basis of the adequacy of their performance; inadequate performance should be corrected; and employees should be separated who cannot or will not improve their performance to meet required standards.
- G. Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.
- H. Employees should be:
 - 1. Protected against arbitrary action, personal favoritism, or coercion for partisan political purposes; and
 - 2. Prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.
- I. Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences:
 - 1. A violation of any law, rule, or regulation; or
 - 2. Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health and safety.
- J. In administering the provisions of this Chapter:
 - 1. With respect to any agency (as defined in Section 2302(a)(2)(C) of this title), the President shall, pursuant to the authority otherwise available under this title, take any action, including the issuance of rules, regulations, or directives; and
 - 2. With respect to any entity in the Executive Branch which is not such an agency or part of such an agency, the head of such entity shall, pursuant to authority otherwise available,

take any action including the issuance of rules; regulations; or directives which is consistent with the provisions of this title and which the President or the head, as the case may be, determines is necessary to ensure that personnel management is based on and embodies the merit system principles.

SECTION 2 PROHIBITED PERSONNEL PRACTICES

The Prohibited Personnel Practices, including reprisal for whistle blowing, are defined in 5 U.S.C. 2302 and are included in Appendix 4 of this contract.

ARTICLE 4 EMPLOYEE RIGHTS AND RESPONSIBILITIES

SECTION 1 GENERAL PRINCIPLES

A. Respect in the Workplace

It is the intent of the Parties that all employees shall be treated with respect and dignity. All bargaining unit employees and the Parties will put forth their best efforts to maintain the efficiency of the service and will conduct themselves in a courteous, professional, and business-like manner in all their working relationships.

B. Working Conditions

1. Employees have the right to working conditions that are safe and healthful, training considered necessary to ensure satisfactory job performance, to express themselves concerning improvement of work methods and working conditions, and to be informed of what is expected of them and to whom they are directly responsible.
2. Employees have the right to refuse, without fear of Employer reprisal, to obey an order that would require the employee to violate a law or would place the employee at risk of endangering health or safety.
3. Employees are authorized reasonable telephone use at the work place personal calls as long as the use does not result in additional cost to the Government.
4. During any investigation, a bargaining unit employee may refuse to answer questions about conduct the employee reasonably believes could serve as the basis for criminal charges unless the Employer assures the employee in writing that any answers given will not be used in a criminal prosecution and notifies the employee that refusal to answer may lead to disciplinary action up to and including removal.
5. Employees have a reasonable expectation of privacy in their personal belongings and in the desks and file cabinets furnished to them by the Government. This right does not preclude Management from searching employees' offices for work files, work products, or information on work assignments needed to carry out government business in the employees' absence. Other searches of the desks and file cabinets will not be conducted unless the employee or the Union has been informed and given the opportunity to be present. The Employer will not monitor or record phone calls or conversations of bargaining unit employees in any office or conference room without first notifying the Union unless a criminal investigation is being conducted.

SECTION 2 RIGHT TO JOIN OR ASSIST THE UNION

Each bargaining unit employee has the right to form, join, or assist any labor organization or to refrain in 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 in law or this Agreement, such right includes the following rights:

- A. 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
- B. To engage in collective bargaining with respect to conditions of employment through representatives chosen by bargaining unit employees.

SECTION 3 RIGHTS TO REPRESENTATION

- A. Bargaining unit employees may be represented by an attorney, and/or representative of the Union, or other representative of the employee's own choosing in any appeal action, except under the negotiated grievance procedure.
- B. All counselors will be specifically informed of a bargaining unit employee's right to file a grievance under the negotiated grievance procedure or file an Equal Employment Opportunity (EEO) complaint.
- C. A representative chosen by an employee at any stage of the processing of an EEO complaint or investigation shall be provided information necessary to properly represent the employee.

SECTION 4 EMPLOYEE PARTICIPATION CAMPAIGNS

A. Definition

An *Employer Participation Campaign* is defined as the Combined Federal Campaign (CFC), the Federal Savings Bond Drive, the Medic Blood Drive, or other similar solicitations announced in published notices.

B. Cooperation of Parties

The Parties agree to cooperate in the conduct of such campaigns and to encourage the participation and support of bargaining unit employees. The Union will appoint one member to the Federal Coordinating Group, which is responsible for the planning of the CFC, and will be asked to designate key people for the solicitation of employees for both the CFC and the bond drive. Published campaign results will credit the Union's role.

C. Voluntary Nature

Participation by individual employees is strictly voluntary. There shall be no discrimination in the workplace against any bargaining unit employee for nonparticipation or for any level of contributions.

D. Supervisory Participation

Supervisors or managers will not directly solicit employees but may encourage participation of employees by issuing memoranda or speaking to groups of employees.

SECTION 5 PARTICIPATION IN PROFESSIONAL ORGANIZATIONS

A. Definition of Professional Organization

For the purpose of this Article, a *professional organization* would include any organization related to an employee's job function whose main purpose includes such things as improving the state of the art, issuing technical publications, or furthering the career development of members.

B. Principles of Participation

The Parties encourage employee participation in professional organizations as one method of enhancing the employee's professional expertise. Individual participation or membership in such organizations is strictly voluntary; in recognition of this, the Employer will not require any bargaining unit employee to become a member or to participate as a member in any professional association. Such participation or membership shall not be a condition for promotion, incentive award, or satisfactory job performance appraisal.

C. Payment of Expenses

1. The Employer will pay expenses in accordance with applicable travel regulations for the attendance of bargaining unit employees at meetings of professional organizations when such attendance is authorized as training.
2. When such attendance is not authorized as training, and when the Employer determines that it may derive benefits from the attendance of an employee at such a meeting, then the Employer may authorize excused absence without charge to leave for employees who wish to attend such meetings and are willing to pay their own expenses.

SECTION 6 EMPLOYEE SUGGESTIONS

Employees have the right to propose new and innovative ways to carry out the functions of ORO and OSTI in accordance with the provisions of Departmental Policy.

SECTION 7 RIGHTS OF HANDICAPPED EMPLOYEES

The Parties support the concept of equal opportunity for handicapped employees, consistent with appropriate governing regulations and the efficiency of the service.

SECTION 8 EMPLOYEES' RIGHT TO KNOW

When the Employer receives, through official channels, changes in law or controlling regulations or when the Employer makes final decisions, and these decisions or changes will directly affect personnel policies and practices or conditions of employment of bargaining unit employees, this information will be made available to employees. Employees will be permitted to review and have access to any Agency/activity regulation on duty time and at no cost to the employee.

SECTION 9 PRIVATE LIVES AND OFFICIAL DUTIES

- A There shall be no negative impact on any bargaining unit employee in the workplace for conduct or activities by that employee outside the workplace except as the Employer may determine necessary to carry out its responsibilities under various governing laws and regulations relating to standards of conduct, suitability, security, and restrictions on political activity, or unless such conduct or activities adversely affect the employee's work performance or the performance of other employees.
- B. Employees will not be precluded from presenting their views to officials of the Executive Branch, Congress, or other appropriate authority.

ARTICLE 5 RIGHT TO REPRESENTATION

SECTION 1 GENERAL RIGHT

The general right to representation is provided for under Article 4, *Employee Rights and Responsibilities*, Section 3.

SECTION 2 FAIR REPRESENTATION

The right to fair representation by the Union is provided for under Article 7, *Union Rights and Responsibilities*, Section 3.

SECTION 3 GRIEVANCES

The right to representation in grievances is provided for under Article 11, *Grievance Procedure*, Section 2.

SECTION 4 ACTIONS BASED ON PERFORMANCE

The right to representation in various situations involving actions based on performance is provided for under Article 22, *Actions Based on Performance*, Section 3.

SECTION 5 ADVERSE AND DISCIPLINARY ACTIONS

The right to representation during various disciplinary and adverse actions is provided for under Article 23, *Adverse and Disciplinary Actions*, Section 3.

ARTICLE 6 MANAGEMENT RIGHTS

SECTION 1 AUTHORITIES

Subject to Section 2 of this Article, nothing in this Agreement shall affect the authority of any Management Official of the Employer-

- A. To determine the mission, budget, organization, number of employees, and internal security practices of the Employer; and
- B. In accordance with applicable laws-
 - 1. To hire, assign, direct, layoff, and retain employees in the agency or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
 - 2. To assign work, to make determinations with respect to contracting acting out, and to determine the personnel by which Employer operations shall be conducted;
 - 3. With respect to filling positions, to make selections for appointments from-
 - a. Among properly ranked and certified candidates for promotion; or
 - b. Any other appropriate source; and
 - 4. To take whatever actions may be necessary to carry out the Employer's mission during emergencies.

SECTION 2 PROCEDURES AND ARRANGEMENTS

Nothing in this Article shall preclude the Employer and the Union from negotiating-

- A. At the election of the Employer, on the numbers, types, and grades of employees or positions assigned to any organizational subdivisions, work project, or tour of duty or on the technology, methods, and means of performing work; .
- B. Procedures which Management Officials of the Employer will observe in exercising any authority under this Section; or
- C. Appropriate arrangements for employees adversely affected by the exercise of any authority under this Section by such Management Officials.

ARTICLE 7 UNION RIGHTS AND RESPONSIBILITIES

SECTION 1 INTERNATIONAL REPRESENTATIVES

OPEIU International Representatives/Business Agents shall be afforded access to DOE facilities in accordance with applicable security regulations for the conduct of legitimate collective bargaining business.

SECTION 2 STEWARD SYSTEM

A. Designated Stewards

Stewards shall be designated by the Union. The Employer agrees to recognize designated stewards as employee representatives for bargaining unit employees in their assigned representational areas. Stewards shall be entitled to the use of official time under the provisions of Article 8, *Official Time for Union Representation*.

B. Number of Stewards

The Union shall designate stewards so that the total number of stewards compares to the total bargaining unit in a ratio of 1:30. In addition, the Employer agrees to recognize a Chief Steward who may not have a specific representational area. The number of recognized stewards may, therefore, rise or fall during the term of this Agreement, depending upon the size of the bargaining unit.

C. Representational Areas

One steward shall be appointed from each representational area established by the Union. A representational area may be established on an organization or location basis. Representational areas shall not overlap. As far as practicable, representational areas shall not be established so as to cover employees in more than one building. Each steward shall be a bargaining unit employee and must be employed within the representational area he or she represents. A newly appointed steward may accompany or be accompanied by the Chief Steward, Shop Chair, or another steward to formal meetings or grievance meetings at all levels, until the new steward has attended three meetings. The Union will attempt to have employees represented by a steward designated for their area.

D. Employer Notification-Stewards

1. The Union shall provide the Employer a complete written list of designated stewards and their representational areas at least 3 workdays in advance of any steward's functioning under the terms of this Agreement. The Union shall inform the Employer each time the stewards' listing is modified or revised within 3 workdays of the change. In the case of a substantial revision, the Union shall provide a complete new listing. The above provision for advance notification applies to all revisions as well as the initial listing.

2. Should a grievance arise within the affected representational area during the 3'workday notification period, the Union may assign the Chief Steward, Assistant Chief Steward, or substitute steward to process the grievance.

E. Employer Notification-Officers

The Union shall furnish the Employer a written listing of the names, offices held, mailing addresses, and telephone numbers of all elected officers of the Local Union and of the shop committee and shall provide written notification of any changes to this listing within 7 days of such change.

F. Posting of Stewards

The Union shall post lists of stewards on appropriate bulletin boards.

SECTION 3 DUTY OF FAIR REPRESENTATION

The Union acknowledges its duty to represent all bargaining unit employees equitably and without discrimination with regard to sex, race, color, creed, religion, national origin, political affiliation or non-affiliation, age, physical handicap, or Union membership.

SECTION 4 EFFICIENCY OF THE WORK FORCE

The Union agrees to strive toward the creation and maintenance of an atmosphere in which every employee shall put forth his or her best efforts to maintain the efficiency of the organization. The Union agrees that the efforts of all bargaining unit employees are required to achieve these objectives and shall cooperate to this end.

SECTION 5 GOVERNING DOCUMENTS

The Union agrees to provide the Employer with a current copy of the ruling constitutions and bylaws and any changes thereto for both the Local and International Unions.

SECTION 6 NO STRIKE

The Union shall not call or participate in a strike, work stoppage or slowdown, or in picketing of the Employer in a labor-management dispute if such picketing interferes with the Employer's operations. The Union shall not condone any activity described above by failing to prevent or stop such activity. Informational picketing which does not interfere with the Employer's operations is permitted.

SECTION 7 ENTITLEMENT TO ACT

As the sole and exclusive representative, the Union is entitled to act for and to negotiate Agreements covering all bargaining unit employees. The Employer recognizes the efforts of the Union Representatives as important in promoting a quality workplace and a safe and friendly work

environment. Although serving voluntarily, the rights and responsibilities of these Union Representatives are supported by the language of the Agreement and by Federal Law.

When carrying out a responsibility under this Agreement and/or law, the Union Representatives shall be considered equal to the corresponding level of management. Further, the Employer shall not discriminate against Union Representatives in the responsible exercise of their right to serve as representatives for the purpose of collective bargaining, handling grievances and appeals, furthering effective labor-management relationships, or carrying out any responsibilities assigned by this Agreement.

The Employer will consider potential impact on labor-management relations responsibilities prior to assigning on-the-job training responsibilities to Union Officers (i.e., Shop Chair, Chief Steward, or Assistant Chief Steward).

SECTION 8 FORMAL DISCUSSIONS

A. Union Right to Attend

The Union shall be given the opportunity to be present at formal discussions between the Employer and bargaining unit employees concerning grievances, personnel policies and practices, and other general conditions of employment.

B. Definition of Formal Discussion

A formal discussion for purposes of this Section is defined as a meeting 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 policies and practices or other general conditions of employment.

SECTION 9 PROCEDURES AND ARRANGEMENTS

Unless otherwise specified in the contract, Management and the Union will each determine the appropriate number of representatives present at meetings to address issues and concerns.

SECTION 10 CONFIDENTIALITY

Union Representatives shall not be required to disclose to DOE Management, its agents, or representatives communications with members of the bargaining unit which occurred during the performance of representational duties.

ARTICLE 8 OFFICIAL TIME FOR UNION

SECTION 1 DEFINITION-OFFICIAL TIME

Official time means all time granted an employee by the Employer to perform representational functions covered by this Article when the employee would otherwise be in a duty status, without charge to leave or loss of pay, and shall be considered hours of work. This includes time spent by an employee performing such functions during regular working hours (including regularly scheduled overtime hours) or during a period of irregular, unscheduled overtime work provided an event arises incident to representational functions that must be dealt with during the irregular, unscheduled overtime period.

SECTION 2 USE OF OFFICIAL TIME

Union Representatives will be granted official time in accordance with Sections 7131 (a) and (c) of 5 U.S.C. 7131 and for committee meetings convened at the Employer's request; arbitrations; other administrative hearings arising from the labor-management activities; or labor-management training and meetings authorized by the Employer.

In addition, Stewards will be granted reasonable time to conduct necessary representational duties as required by law, regulation, or this Agreement. *Reasonable time* is defined as that period of time necessary to accomplish representational obligations established by the terms and provisions of this Agreement.

A bank of 1200 hours of official time will be set aside each calendar year for use by the Shop Chair, Chief Steward, and Assistant Chief Steward to perform contract administration and representational activities. Union Officials may draw on this bank in amounts not to exceed 24 hours by anyone official in anyone pay period.

The Union will notify the supervisor prior to the use of official time that time from the bank will be used, and will also notify the Principal Management Contact in writing, no later than the second workday following the end of the pay period, of the number of hours used from the bank each pay period.

Workloads of the aforementioned Union Officials will be adjusted to accommodate time used for representational duties unless to do so would interfere with the Employer's ability carry out its missions.

In the event the bank of official time is exhausted before the end of the calendar year, and when work conditions are such that the Union Official may be excused from work, the above Union Officials will be granted reasonable time to conduct necessary representational duties as required by law, regulation, or this Agreement.

Requests for official time for stewards and for official time in excess of the bank by the aforementioned Union Officials will be made on the "Request for Official Time" form, included as

Appendix 5. When use of official time is denied, the reason for the denial will be included on this form.

SECTION 3 PURPOSES OF OFFICIAL TIME

A. Stewards and Officers

Official time may be granted authorized Union Representatives for the following purposes:

1. Meetings with the Employer on labor-management relations matters.
2. Presentation of grievances. This includes participation in hearings and meetings, including arbitration proceedings.
3. Participation in proceedings before the FLRA, subject to determination by the Authority.
4. Negotiation of a collective bargaining Agreement, including attendance at impasse proceedings.
5. The Employer agrees to pay travel and per diem expenses for employees serving as OPEIU Representatives who are granted official time to attend joint employee/management meetings outside the commuting area.
6. Preparation and presentation of reconsideration requests for withheld within-grade increases (WIGIs) and responses to proposed adverse actions and suspensions, when the employee has requested representation.
7. Discussions with employees concerning potential grievances.
8. Preparation time for grievances and arbitrations to the extent necessary to interview witnesses and the grievant or to obtain or review material which cannot be obtained or reviewed during nonworking hours.
9. Labor relations training time as specified under Article 25, *Training, Development and Upward Mobility*.
10. Time for preparing classification appeals as specified under Article 16, *Position Classification*.
11. Presence at formal discussions as specified under Article 7, *Union Rights and Responsibilities*.
12. Any purpose specified elsewhere in this Agreement.

B. Shop Chair, Chief Steward and Assistant Chief Steward

The Shop Chair, Chief Steward and Assistant Chief Steward will be allowed reasonable time for preparation of paperwork and review of pertinent documents in connection with grievances, up to a maximum of a combined total of 225 hours each year.

C. Employees

Reasonable time may be granted to employees for the following purposes:

1. Presentation of grievances. This includes participation in hearings and meetings, including arbitration proceedings, as a grievant or witness.
2. Participation in proceedings before the FLRA, subject to determination by the Authority.
3. Travel time as necessary for participation in the above proceedings.

4. Preparation and presentation of reconsideration requests for withheld WIGIs and responses to proposed adverse actions and suspensions.
5. Discussions with their shop steward concerning potential grievances.
6. Time for preparing classification appeals as specified under Article 16, *Position Classification*.
7. Interviews with Union Representatives to discuss the employee's participation in a grievance or arbitration proceeding as a witness or grievant.

SECTION 4 PROCEDURES FOR OFFICIAL TIME

A. Notification to Supervisor

Except for periods of brief duration, the representative or employee will ask his/her immediate supervisor for permission to take time away from work and will provide the following information to the supervisor as far in advance as possible:

1. Purpose of official/reasonable time
2. Organization, room number, and telephone number where the time will be used
3. Estimated amount of time to be used
4. Date and hour proposed for use of the time

SECTION 5 LEAVE OF ABSENCE FOR UNION OFFICIALS

A. OPEIU Elected/Appointed Positions

Employees who are elected or appointed to serve in an official capacity as a representative of the Union shall be granted, upon request, leave without pay (LWOP) concurrent, and consistent with elected terms of office or appointment. Each request by an employee for such LWOP shall be for a specified period and shall be certified by the national office of the Union.

B. Return Rights

Upon completion of a period of LWOP granted under this Article, the employee shall be returned to duty at the duty station to which he/she was assigned prior to his/her assuming LWOP status. The Employer will attempt to place the returning employee in the position held at the time the leave was granted; however, if that position is not available, a position of like grade and pay will be offered. By mutual Agreement between the employee and his/her employing agency, he/she may be returned to a duty station other than the duty station to which he/she was assigned prior to his/her assuming LWOP status.

Upon written (electronic or otherwise) notice from the employee to the Employer that need for LWOP granted under this Article has ended, the employee shall be permitted to return to duty prior to the termination date of his/her LWOP status.

SECTION 6 DISPUTE RESOLUTION

Should a dispute arise between the Parties concerning the terms of this Article, the Parties shall meet and confer on the issue within 3 workdays of the dispute's inception unless this time limit is extended by mutual Agreement. If they fail to resolve the dispute through meet and confer, the issue may be referred to whatever step of the grievance procedure the Parties agree is appropriate.

ARTICLE 9 OFFICIAL FACILITIES AND SERVICES

SECTION 1 BULLETIN BOARDS

A. Location and Use

The Employer agrees to provide the Union with two (2) 3 ft. x 4 ft glass-enclosed, locking bulletin boards, one each at the Federal Office Building (FOB) and at OSTI. In addition, one (1) 3 ft.x 4 ft. open bulletin board shall be located at each building site with twenty (20) or more bargaining unit employees. At building sites with fewer than twenty (20) bargaining unit employees, the Employer shall provide the Union reasonable space on appropriate bulletin boards which are under the Employer's control.

B. Posting Restrictions

The Union shall post no material which reflects adversely on the motive or integrity of any individual, other labor organizations, government agencies, or the activities of the Federal government. Material may be posted or removed from Union bulletin boards during nonwork time only.

SECTION 2 DISTRIBUTION OF LITERATURE

A. Times and Locations for Distribution

The Union may distribute literature to employees in work areas on nonwork time.

B. Use of Mail Systems

The Union will have the right to use the internal mail to communicate with the employees in the bargaining unit. Use will be restricted to one mailing a month, except as noted in Article 9, Section 4. Internal mail system is defined as either hard copy distribution through the mail system or electronic mail. Management will be allowed to review and comment on material before it is mailed. Management will register any concerns with the newsletter as soon as possible but in no event later than 24 hours from receipt. This right to use the internal mail system will be denied if the material is determined to violate the terms and conditions of this Section or is found to be inflammatory or defamatory. The Union will not include material that pertains to partisan political matters, or which reflects on or attacks the integrity or motives of individuals, the Department, other unions, or other government agencies. The material can contain solicitation of membership, announcement of meetings, announcement of internal Union ejections, lists of candidates for DOE shop offices, and any Labor-management matter of interest to the bargaining unit. The material will be clearly identified as union material and not official DOE material. The material will be reasonable in size.

SECTION 3 USE OF MEETING ROOMS

The following conditions shall govern the use of the Employer's meeting rooms by the Union:

A. Use During Official Time

Upon advance request from the Union, the Employer will permit the use of its meeting rooms, when available, for the purposes specified in Article 8, *Official Time for Union Representation*.

B. Use of Internal Business

For its internal business, the Union may use the Employer's conference rooms in uncleared areas of the FOB and OSTI, when they are available, from 6 p.m. to 11 p.m., during lunch periods, and on weekends. Requests for use of these rooms must be made at least 24 hours in advance to either the Information Resources Management Division (IRMD) for ORO or the Associate Director for Administration and Information Services for OSTI. The Parties recognize that the Employer's official business may require rescheduling on short notice. The Union agrees to comply with all security and housekeeping rules in effect at that time and place.

SECTION 4 USE OF OFFICIAL TELEPHONES AND ELECTRONIC MAIL

Union Representatives and bargaining unit employees may use the Employer's telephone and electronic mail for the purposes specified in Article 8, Section 3, *Purposes of Official Time*. It is expected that such calls and electronic mail will be as brief as possible and will not be disruptive to other employees or the work of the office. The Employer will provide Union Representatives with individual voice mail accounts.

SECTION 5 USE OF COPYING EQUIPMENT

A. Self-Service Copiers

The Union may use the Employer's copying equipment during working hours, at no cost, for the reproduction of small quantities of material relating to the Labor-Management relationship.

B. Cost-Recovery Copying

The Union may use the ORO Reproduction Services for copying material on a cost-recovery basis. Material to be reproduced must be reasonable in size and may not be in such quantities that it interferes with or greatly delays the normal functioning of the ORO Reproduction Services. Cost for such services shall be full cost-recovery or commercial rate, whichever is higher.

SECTION 6 USE OF TYPEWRITERS AND COMPUTERS

1. Bargaining unit employees and Union Representatives may use the Employer's typewriters and computers during non-duty hours. Bargaining unit employees and Union Representatives may use the Employer's typewriters and computers during duty hours under the conditions and for

the purposes specified in Article 8, *Official Time for Union Representation*.

2. Management may access computers used by Union Representatives to upgrade software and to perform maintenance. Software, other than that supplied by the Employer must be scanned by IRMD for virus protection purposes.

SECTION 7 OFFICE SPACE AND EQUIPMENT

The Employer will provide one lockable office in the ORO FOB and one lockable office at OSTI for the exclusive use of the Union. (These rooms may be changed after mutual consent of the Parties.) These offices will be furnished by the Employer with standard-issue desks, chairs, lockable filing cabinets, computers and printers, fax machine with dedicated line, separate [internet line and modem, telephones; telephone service including voice mail, and electronic mail (e-mail). The Employer will provide the standard computer software available to the respective office complexes. The Employer will allow the Union to "ride" the Employer's contract for specialized labor relations software at the expense and request of the Union. Union officials are authorized to use all equipment and systems for representational duties for ORO/OSTI bargaining unit employees as defined in Title 5, Chapter 71, and this Agreement Except for periods of short duration, all representational duties will be conducted in these offices and with the equipment provided above. Upon notification to and in the presence of a Union official, Management shall be granted access to computers and other equipment in these offices to perform routine maintenance and upgrade software.

SECTION 8 INFORMATION SERVICES

A. Departmental Regulations

The Employer shall furnish the Union with three copies of the DOE and ORO personnel and travel regulations. One copy of each document shall be furnished to the Shop Chair, the Chief Steward, and the Assistant Chief Steward.

B. Designation of Contact

The Employer will designate a *Principal Management Contact* for the purpose of administering this Agreement and relations with the Union.

C. Bargaining Unit Composition

On a quarterly basis, the Employer will furnish to OPEIU, for its internal use only, a standard report on diskette, which includes the names, position titles, series, grades and organizational locations of all bargaining unit employees.

D. Bargaining Unit Changes

1. Either party may propose changes in the recognized bargaining unit at any time.

2. Each party has a duty to inform the other party promptly of decisions which affect the status or existence of the bargaining unit.
3. The term *decisions*, as used above, excludes the movement of individual employees into or out of the bargaining unit, unless such movement is integral to a larger change in the bargaining unit.

SECTION 9 DISTRIBUTION OF AGREEMENT

A. Printing

The Employer will print this Agreement in booklet form at no cost to the Union.

B. Distribution

The Agreement will be distributed by the Employer in the following manner:

1. Each employee in the bargaining unit as of the date of distribution will receive one copy of the Agreement.
2. The Union will receive one hundred copies of the Agreement.
3. A dozen copies of the new contract will be provided to the Union in the same format as management receives.

SECTION 10 INFORMATION TO NEW EMPLOYEES

- A. The Employer will provide each newly hired bargaining unit employee with the following material upon entry on duty:
 1. One copy of this Agreement.
 2. A current shop stewards listing for ORO/OSTI
 3. One copy of the negotiated OPEIU Fact Sheet.
- B. When a new bargaining unit employee is scheduled to enter on duty, the Principal Management Contact will notify the Shop Chair, no later than 5 days in advance, of the employee's full name, position title and grade, organizational assignment, and the date of the employee's entry on duty. At duty stations where the Union has a Union Representative, the Shop Chair will designate a representative who will be granted 25 minutes of official time during the employee's first day orientation to explain the role and responsibilities of the Union.

SECTION 11 PARKING LOTS

No charge for parking at the ORO or at OSTI will be passed on to employees.

The Union shall be provided reserved parking spaces close to an entrance. The number of space(s) provided shall be the same number of spaces reserved for Management at ORO and OSTI.

ARTICLE 10 DUES WITHHOLDING

SECTION 1 GENERAL

A. Definition

Dues are defined as the regular, periodic amount of money uniformly required to maintain membership in good standing in the Union.

B. Eligibility

Any bargaining unit employee who is a member in good standing of the Union may authorize dues withholding at any time during the life of this Agreement.

C. Employer Service

The Employer agrees to withhold Union dues from the pay of bargaining unit employees who voluntarily authorize such deduction on Standard Form 1187. The Employer will deduct dues biweekly in the amount specified by the Union, provided that an employee's earnings during a particular pay period are sufficient to cover the amount of the allotment after other deductions have been made.

D. Costs

Dues withholding services will be provided at no cost to the Union.

SECTION 2 PROCEDURES

A. Form 1187

The Union is responsible for purchasing and distributing to its members Standard Form 1187. Photocopies are acceptable. The Union will forward properly executed and certified forms to the Human Resources Division for processing.

B. Effective Date

Withholding requests submitted to the Human Resources Division by the final Tuesday of a pay period will be effective at the beginning of the next pay period.

C. Changes in Dues Structure

The Union may alter the uniform amount of dues to be deducted no more frequently than once a year. A year, for the purposes of this Section, shall be defined as the twelve (12)-month period between the anniversary dates of this Agreement. The Union will provide the Employer with specifics of such changes at least twenty (20) workdays in advance of implementation.

D. Union Duty to Inform

When an employee ceases to be a member in good standing of the Union, the Union will notify the Employer within five (5) workdays. In addition, the Union agrees to provide the Employer with the following information:

1. Name, address, and title of the local Union official responsible for certifying the amount of dues to be withheld on Form 1187 and periodic changes in that amount;
2. Name, address, and title of the local Union secretary-treasurer to whom remittances shall be sent;
3. Name of the payee for remittance checks;
4. Amount of regular biweekly dues.

E. Remittance

Authorized deductions will be totaled, and a check for that amount will be forwarded by the Employer to the Union's local secretary-treasurer every 2 weeks. With the check, the Employer will send an itemized listing of employees for whom deductions were made and the amount deducted. Upon request from the Union, the Employer will explain why dues were not withheld for specific employees, such as insufficient salary, separation, etc. In addition, the Employer will forward promptly to the Union a copy of any revocation notice it may receive.

SECTION 3 CORRECTION OF ERRORS

A. General

The Employer shall be held harmless for any errors associated with the withholding of dues. Administrative errors in remittance checks will be corrected and adjusted in a subsequent remittance check to be issued to the Union.

B. Notice of Error

In the event an error is made in the deduction of dues, the Employer agrees to send the affected employee the following notice:

An error has been made in deducting your Union dues from your paycheck for pay period ending _____. A description of the error appears below. As a result of this error, the Department will withhold \$_____ from your check for pay period ending _____ instead of the usual amount withheld. If you have any questions, please contact the payroll office.

Description of Error:

SECTION 4 TERMINATION OF DUES WITHHOLDING

A. Voluntary Revocation

A properly executed authorization to deduct dues may not be revoked for a period of one (1) year from its effective date. After one (1) year an authorization may be revoked annually only, on May 1st of each calendar year.

B. Movement Out of Unit

1. Except as provided for in 2. below, the Employer shall discontinue paying an allotment when the allotter is separated from the Employer; transfers between agencies; moves; is reassigned or promoted outside the bargaining unit; is suspended or expelled from the Union; or when this dues withholding agreement between the Parties is terminated, suspended, or ceases to be applicable to the allotter.
2. The Employer shall permit an employee within the bargaining unit, who transfers within the same agency, to continue on a temporary basis to make an allotment for dues to the Union under the following conditions:
 - a. The transfer of the employee is in connection with a transfer of function or reorganization; and
 - b. The employee was, in the bargaining unit, which unit was transferred in whole or in part to another agency, or different organizational group within the same agency.
 - c. A substantial question of successorship exists; that is, a question as to whether the Union which held exclusive recognition for the unit is eligible to retain the recognition previously granted to it by the losing agency; and
 - d. The continuation of dues allotment is on a temporary basis until such time as the recognition status of the unit is clarified.

C. Temporary Reassignments

Details or temporary promotions of less than 120 days outside the bargaining unit are not sufficient to terminate dues withholding.

D. Notice of Termination of Dues Withholding

1. When a bargaining unit member is reassigned or promoted to a position outside the unit, the Employer will notify the employee that dues withholding is being terminated.
2. The Employer will forward to the Union a quarterly listing of all employees who were so notified.

SECTION 5 DURATION

This Article will remain in effect after the termination of this Agreement and until the completion of negotiations for a new Agreement, including any impasse proceedings. The Parties may mutually agree to extend the provisions of this Article at any time.

ARTICLE 11 GRIEVANCE PROCEDURE

SECTION 1 DEFINITION, SCOPE, AND EXCLUSIONS

A. Definition

A grievance shall be defined as any complaint.

1. By any employee concerning any matter relating to the employment of the employee;
2. By the Union concerning any matter relating to the employment of any bargaining unit employee;
3. By a bargaining unit employee or either party concerning:
 - a. The effect or interpretation, or a claim of, breach each, of this Collective Bargaining Agreement; or
 - b. Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment as provided in the Civil Service Reform Act of 1978;
4. By an employee or the Union concerning any matter relating to employment not covered by any other areas of the Agreement.

B. Scope

These negotiated grievance procedures are the exclusive procedures available to bargaining unit employees for resolving grievances as defined herein, except that, under the conditions listed below, employees may elect to appeal through either the negotiated grievance procedure or a statutory procedure, but not both.

1. Prohibited personnel practices relating to discrimination on the basis of race, color, sex, religion, national origin, age, handicapping condition, marital status, or political affiliation;
2. Adverse actions covered under Article 22, *Actions Based on Performance*, and Article 23, *Adverse and Disciplinary Actions*, including removal, reduction in grade or pay, and suspensions of more than 14 days.

C. Exclusions

The negotiated grievance procedure shall not cover grievances concerning:

1. Prohibited political activities;
2. Retirement, life insurance, or health insurance;
3. Suspension or removal for national security reasons;
4. Any examination, certification, or appointment; or
5. Classification of any position which does not result in the reduction in grade or pay of an employee

SECTION 2 GENERAL GRIEVANCE PRINCIPLES

A. Employee Right to Grieve

1. Individual employees have the right to file grievances under these procedures without harassment, discrimination, or reprisal. The fact that an employee has filed a grievance, presented a grievance, or has served as a witness in any grievance proceeding will not cause any official reflection on the standing of that employee with his or her supervisor or the Department.
2. Employees and representatives of the Employer and the Union who have relevant information concerning any matter for which remedial relief available under this Article shall, in seeking resolution of such matter, be assured freedom from restraint, interference, coercion, discrimination, intimidation, or reprisal.
3. Neither the Employer nor the Union shall restrain, interfere with, coerce, or discriminate against any employee in the exercise of his or her right to designate a Union Representative under the terms of this Article.

B. Union's Right to Grieve

The Union's right to grieve shall be limited only by the specific restrictions placed thereon elsewhere in this Article. The Union may file grievances on behalf of any employee or group of employees, with the understanding that any such grievance must be signed by the Shop Chair, Chief Steward, Assistant Chief Steward, or the Union's Business Agent.

C. Resolution to Grievances

The Parties agree to the general principle that every effort will be made to settle grievances at the lowest practicable level. Nothing in this Agreement shall be construed as precluding discussion between an employee and his or her supervisor about a matter of concern to either of them. Also, once a matter has been made the subject of a grievance under this procedure, nothing in this Agreement shall preclude either party from attempting to resolve the grievance informally.

D. Definition of Issues

1. The Parties will make every effort, on a good faith basis, to present all the facts and/or information, define all the issues, and identify the remedy or relief requested at Steps 1 and 2 of the grievance procedure.
2. The recipient of the grievance will make every effort, on a good faith basis, to raise questions on the grievability or arbitrability of a grievance at Steps 1 and 2, subject to the Parties' understanding that this determination may change if the definition of the issues changes or if new facts and/or information are presented during the processing of a grievance.
3. When a question of grievability is raised by either party, this question will be attached to the grievance and discussed as the grievance is processed.

E. Official Time

In processing matters under these procedures, grievants and Union Representatives are entitled to the use of official/reasonable time in accordance with the provisions of Article 8, *Official Time for Union Representation*.

F. Consolidation of Grievances

Individual employee grievances covering identical or similar matters will be consolidated and processed as a single grievance, subject to the employee's right to present his or her own grievance. Other grievances may be processed in a consolidated manner by mutual consent. If a grievance encompasses identical issues and substantially the same set of allegations as those which will be the subject of a decision which is pending before the FLRA, the Parties may, through written, mutual consent, agree to forestall further processing of the grievance until the FLRA renders its decision.

SECTION 3 TIME LIMITS FOR PROCESSING GRIEVANCES

A. General

Failure of the party grieved against to meet the time limits prescribed in this Article shall permit the grievant to move the grievance to the next step of the grievance procedure. Failure of the grievant to meet the prescribed time limits shall constitute withdrawal and termination of the grievance. The time limits prescribed in this Article may be extended by mutual agreement of the Parties and confirmed in writing. For purposes of complying with any of the time limits, the first workday is counted as the workday immediately following the day on which the particular act or occurrence transpired or on which the employee became aware of the act or occurrence.

B. Initial Step

A grievance concerning a continuing practice or condition may be initiated at any time. A grievance concerning a particular act or occurrence must be initiated within 15 workdays of the date of the act or occurrence, or within 15 workdays of the date the grievant became aware of the act or occurrence.

C. Extensions

1. If new information or facts are introduced relating to a grievance, if the definition of the issues in a grievance changes, or if the recipient's position on the grievability or arbitrability of a grievance changes at any step the time limits prescribed shall automatically be extended 15 workdays.
2. The time limits prescribed in this Article may be extended by mutual agreement of the Parties.

SECTION 4 EMPLOYEE GRIEVANCES

A. Use of Employee Procedure

This procedure will be used for all grievances, as defined in this Article, which are initiated by or on behalf of a single employee or a group of employees. All formal grievances for which the grievant wishes personal relief must be submitted in writing and signed by the grievant. Grievances filed by the Union on behalf of an employee or group of employees must be signed by an appropriate Union Representative. For this Section, the appropriate Union Representative is defined as the Shop Chair, the Chief Steward, the Assistant Chief Steward, or the Business Agent. Electronic mail is acceptable.

If a bargaining unit employee or group of bargaining unit employees elects to represent himself/herself or themselves, the supervisor will notify the Union and the Principal Management Contact immediately. The Union will be given an opportunity to be present during any grievance discussion/proceeding.

B. Step 1 Informal Grievance

The employee shall notify the immediate supervisor that an informal grievance is being initiated. The Parties will meet within 15 workdays to attempt to resolve the issue(s). The supervisor must give a verbal response within 15 workdays of the date the grievance is initiated. Prior to the initiation of a formal grievance, every effort should be made to resolve the grievance, including the use of an Alternate Dispute Resolution (ADR) process once jointly developed and implemented.

C. Step 2 Formal Grievance

OSTI employees should proceed directly to step 3.

For ORO employees, if the grievance is not resolved during Step 1 or in the ADR process, the employee or appropriate Union Representative shall reduce the grievance to writing and present it to the appropriate Assistant Manager, or in the case of Heads of Offices reporting to the Manager, to the Deputy Manager within 15 workdays of receipt of the informal answer/decision or the completion of the ADR process.

The written grievance shall include a description of the complaint, the issues involved, and the remedy requested by the employee. If the grievance is a group grievance, the group involved shall be clearly defined. A written decision will be given to the employee within 15 workdays of receipt of the Step 2 grievance.

D. Step 3 Formal Grievance

If the grievance is not resolved at the previous step, the written grievance may be submitted to the Manager of ORO or at OSTI, to the Director to whom the employee's supervisor reports

within 15 workdays of receipt of the written decision. A written decision from the applicable manager will be given to the employee within 15 workdays of receipt of the Step 3 grievance.

E. Meetings

The Parties recognize their duty to meet, as needed, during the grievance procedure. A meeting to discuss a grievance shall be held at any step of the grievance procedure, at the request of either party or of the grievant.

F. Variations

Any step of the grievance procedure may be waived by mutual written agreement of the Parties. Furthermore, the organizational placement of the grievant's position may result in less than a three-step procedure in some cases.

G. Union Representatives

Copies of the written decisions at Steps 2 and 3 will be given to both the grievant and the Union Representative. The Union Representative will normally be the shop steward assigned to the grievant's representational area. If another Union Representative is assigned, the Union will notify the Principal Management Contact in advance of any meetings if possible. At Step 3, both the assigned representative and the Chief Steward or their designees may attend the grievance proceeding. At the conference step, specified in Section 6B below, no more than two Union Representatives who are employed in the unit may attend on official time, unless additional Union Representatives are needed to equal the number of management representatives.

SECTION 5 PARTY GRIEVANCES

A. Use of Party Procedure

This procedure will be used by the Employer for filing any grievance against the Union and by the Union for any grievance in which the Union is the grievant.

B. Step 1

The Parties will attempt to resolve the grievance informally through discussions between the Chief Steward and the Principal Management Contact or their designees. The recipient of the grievance will provide a written response within 15 workdays of the date the grievance is initiated.

C. Step 2

If the grievant is not satisfied with the Step 1 response, that party may reduce the grievance to writing within 15 workdays of receipt of the Step 1 response. The written grievance shall include a description of the complaint, the issues involved and the remedy requested by the grievant. The grievance shall be signed and submitted in either hard copy or e-mail to the DOE Shop Chair, Local 2001, and the Director, Human Resources Division. If either party desires a meeting, the

Director and the Shop Chair or their designees, shall meet to discuss the grievance. The recipient of the grievance shall give a written reply within 15 workdays of its receipt.

SECTION 6 APPEAL TO ARBITRATION

A. Notice of Intent

Any matter not resolved satisfactorily under these procedures may be appealed to arbitration in accordance with Article 12, *Arbitration*. If arbitration is to be invoked, the moving party must provide the other party with written notice of its intent within 15 workdays of receiving the final grievance decision.

B. Conference Step

At the request of either party, a conference will be held during this period of 15 workdays between the Manager, ORO or OSTI, or his/her designee and the International Representative or Business Agent and at least two bargaining unit members. The conference will explore possibilities for settlement of the matter in dispute.

ARTICLE 12 ARBITRATION

SECTION 1 INVOKING ARBITRATION

When arbitration is invoked under the provisions of Article 11, *Grievance Procedure*, written notice of the intent to invoke arbitration must be provided to the other party within the time limits specified.

SECTION 2 EXPEDITED ARBITRATION

A. Scope

The Parties agree that all unresolved disputes involving minor disciplines shall be referred to expedited arbitration. *Minor discipline*, for purposes of this Section, means oral admonishments, letters of reprimand, and suspensions of 5 days or less. In addition, expedited arbitration may be used in any case where the Parties mutually agree on its use.

B. Nonprecedential Nature

Decisions in cases processed under the expedited arbitration procedure are understood to be nonprecedent setting.

C. Selection of Arbiters

The parties will follow the procedures in Section 3B of this Article for the selection of an Arbitrator.

D. Setting the Hearing Date

Upon selection of the arbiter, the Parties will jointly communicate with the arbiter to set a mutually agreeable date for the arbitration hearing. The arbiter is expected to set the hearing date within 15 workdays of the date of contact.

If the arbiter fails to set the hearing date within this time frame, the Parties will discuss options in the following order:

1. Extend the time limits;
2. Select the arbiter whose name was struck last;
3. Request Federal Mediation and Conciliation Service (FMCS) to send a list of seven arbiters;
4. Select one of the remaining arbiters on the expedited arbitration panel by lot.

If the Parties are unable to agree on one of the first three options or on any other option which may be considered by the Parties, then the fourth option will be used.

E. Transcripts

No transcript shall be made of an expedited arbitration proceeding.

F. Briefs

Briefs may be filed in an expedited arbitration case at the option of either party. Briefs are due within 10 workdays of the closing date of the hearing.

G. Due Date of Decision

In any expedited arbitration case, the arbiter's written decision shall be due within 15 workdays of the receipt of briefs or within 15 workdays of the closing date of the hearing if the Parties agree to waive briefs in a particular case.

H. Removal of Arbiters

Either party may remove an arbiter from the expedited arbitration panel for just and sufficient cause, including flagrant disregard of the time limits specified in this Article. This option may be exercised only once by each party during the term of this Agreement. If an arbiter is removed under this provision, a replacement will be selected by the Parties.

SECTION 3 REGULAR ARBITRATION

A. Scope

This procedure will be used in all cases where the expedited arbitration procedure is not used.

B. Selection of Arbiters

Within 5 workdays from the date of receipt of the arbitration notice, the Parties will jointly request a list of seven arbiters from the FMCS. Within 5 workdays of receipt of the list, the Parties will meet to select an arbiter. The Parties shall select an arbiter by alternately striking the names from the list until one name remains. The remaining person shall serve as arbiter. The decision as to which party shall strike the first name will be determined each time by a flip of the coin.

C. Setting the Hearing Date

Upon selection of the arbiter, the Parties will jointly communicate with the arbiter to set a mutually agreeable date for the hearing. The arbiter is expected to set the hearing date within 30 workdays of the date of contact. If the arbiter fails to set the hearing date within this time frame, the Parties will discuss options in the following order:

1. Extend the time limits;
2. Select the arbiter whose name was struck last;
3. Request FMCS to send a new list of seven arbiters;

4. Select an arbiter from the expedited arbitration panel.

If the Parties are unable to agree on one of the first three options or on any other option which may be considered by the Parties, then the fourth option will be used.

D. Transcripts

If both Parties desire a written transcript of the hearing, a court reporter will be used and they shall share the transcription costs equally. If, however, only one; of the Parties desires a written transcript, that party shall provide the court reporter and bear all costs of the transcript. That party also will provide a copy of the transcript, at no charge, to both the arbiter and the other party to the hearing within 2 workdays after receipt. The party desiring the transcript will prepare the request and “cc” the arbiter and the other party to the hearing. The request for the transcript will specify that the transcript is desired within 15 days.

E. Briefs

Briefs may be filed at the option of either party, due within 15 workdays of the closing date of the hearing, or within 30 workdays of the closing date of the hearing if a transcript is made.

F. Due Date of Decision

The arbiter's written decision shall be due within 30 workdays of the receipt of briefs or within 30 workdays of the closing date of the hearing if the Parties agree to waive briefs in a particular case.

SECTION 4 GENERAL ARBITRATION PRINCIPLES

A. Authority of the Arbiter

The arbiter will have no authority to add to, subtract from, alter, amend, or modify in any way any provision of this Agreement.

B. Definition of Issues

If the Parties are unable to agree on a joint definition of the issues, the arbiter is empowered to define the issues of that particular grievance.

C. Arbitrability Disputes

In a grievance which includes a question of arbitrability, the arbiter will hear both this issue and the merits of the case at the hearing but will address the arbitrability question as a threshold issue in the decision.

D. Time and Place for Arbitration Hearing

The arbitration hearing will be held on the Employer's premises during the normal working hours (8 a.m. - 5 p.m.) of the normal Monday-Friday workweek.

E. Conduct of the Arbitration Hearing

At least 10 workdays prior to the hearing date, the Parties shall exchange lists of witnesses whom they expect to have testify. At the same time, each party shall also provide the arbiter with a copy of its list. Bargaining unit employees participating in the hearing as a grievant or as witnesses and one bargaining unit employee participating in the hearing as a representative of the grievant will be excused from duty, if otherwise in a duty status, for such participation in accordance with the provisions of Article 8, *Official Time for Union Representation*.

F. Postponement of Hearing

Once a hearing date has been set in accordance with the provisions of this Article, there shall normally be no recess, postponement, or rescheduling of the hearing by the Parties without mutual consent. If the Parties are unable to agree, the issue may be referred to the arbiter for decision. The arbiter will grant postponement only if one of the Parties would otherwise be seriously handicapped in its ability to present its case. The maximum postponement will be 15 workdays for an expedited arbitration hearing or 30 workdays for a regular arbitration hearing.

G. Reopening Record

The conduct of the arbitration hearing is determined solely by the arbiter. Once the arbiter has closed the record, however, the arbiter may not reopen the record at a later time to hear the testimony of additional witnesses except by mutual, written agreement of the Parties.

H. Arbiter's Decision

The arbiter's decision must be in writing and must include a finding of the facts and an opinion containing the reasoning and basis for the decision. The arbiter will send a copy of the decision to each party.

I. Clarification of Decision

By mutual consent only, the Parties may jointly or singly request clarification of the arbiter's decision from the arbiter.

J. Appeal of Arbitration Awards

Either party may file exceptions to an arbiter's award in accordance with the provisions of 5 U.S.C. 71. Exceptions may be filed only where one of the Parties thinks that the award is deficient because it is contrary to law, rule or regulation, or on other grounds similar to those applied by

Federal courts in private-sector labor-management relations.

K. Costs of Arbitration

The fee and expenses of the arbiter shall be shared equally by the Parties. Any fee associated with the submission of an arbitration panel shall also be shared equally by the Parties. Each party shall bear the expense of its own nonemployee witnesses.

L. Refusal to Select an Arbiter

The FMCS shall be empowered to make a direct designation of an arbiter to hear the case in the event:

1. Either party refuses to participate to conclusion in the selection of an arbiter; or
2. Either party fails to meet the time limits specified for the selection of an arbiter without mutual consent of the Parties.

M. Termination of Procedures

Any grievances in process as of the date this Agreement terminates under the provisions of Article 30, *Duration*, will continue to be processed under the grievance and arbitration procedures of this Agreement.

ARTICLE 13 MIDTERM DEALINGS

SECTION 1 LABOR/MANAGEMENT MEETINGS

The Parties will meet once a month on matters of concern to either party. Such meetings may be held more frequently than once a month or deferred, by mutual consent of the Parties, and will be scheduled mutually convenient times. The Union's Chief Steward and the Principal Management Contact will arrange these meetings and will trade tentative agendas on the subjects to be considered at least 48 hours in advance. In addition to International Representatives, the Union may designate up to three employee representatives to attend these meetings. Names will be provided to the Employer at least 24 hours in advance. Such discussions held during the life of this Agreement shall not be construed as rising to the level of negotiations.

SECTION 2 EMPLOYER PROPOSALS FOR CHANGE DURING THE TERM OF THE AGREEMENT

When the Employer wishes to propose changes in personnel policies, practices, and matters affecting working conditions not specifically covered by the Agreement or mandated by law or regulation, it will notify the Union's Chief Steward in advance of implementation of the policy. The Union will be given up to 30 days following notification to request discussions and/or negotiations, as applicable, on the proposed changes or on impact and implementation. If the Union timely requests discussions or negotiations, the proposed changes will not be implemented until negotiations are complete, unless the delay would cause the Employer to violate law or government-wide regulations or adversely impact mission accomplishment or health and safety of employees.

SECTION 3 STANDING COMMITTEES AND WORK GROUPS

A. Standing Committees

The Parties recognize the need for employee input into matters affecting working conditions of bargaining unit employees. When standing committees are established by the Employer, which include bargaining unit employees in other than their official work capacity, and the function of such a committee is to deal with negotiable matters affecting conditions of employment, the Union may appoint an appropriate number of Union Representatives to the committee. The Union Representatives on such committees shall participate as full members. OPEIU Local 2001 agrees to keep the Employer informed of its designated representatives on all committees.

B. Temporary Employee/Management Workgroups

When temporary workgroups are established by the Employer to discuss or formulate changes in conditions of employment, personnel policies, practices) and other negotiable conditions of employment, the Union will be informed and invited to participate as full members and in equal numbers to the non-bargaining unit representatives. The Union will appoint all bargaining unit members and ensure that members so appointed understand that they are serving as representatives

of the Union Negotiations on proposed changes will be completed before changes are implemented to the extent delay does not result in violation of law or regulation. Participation in these workgroups shall be in addition to reasonable time and under the conditions defined in Article 8.

The Employer reserves the right to establish, and appoint all members to technical work groups which are established solely to discuss or formulate changes in technical work-related matters. The Employer will notify the Union before appointing bargaining unit employees to such a group. Management will ensure that members so appointed understand that they are not to discuss/address negotiable issues. The Employer will also notify the Union of the results of the workgroup's decisions and fulfill its obligation to negotiate on impact and implementation prior to implementing changes.

SECTION 4 OFFICE MOVES

All Parties agree to the objective of assuring all bargaining unit employees are treated consistently in the assignment of office spaces with a minimal amount of disruption. For the purposes of this Section, the service computation date (SCD) as shown on the Leave and Earnings Statement will determine seniority for the selection of offices.

A. Procedure

When Management wishes to relocate an employee(s), they will give notice to OPEIU and provide the following initial information:

1. reason(s) for the relocation;
2. a list with the names of affected bargaining unit employees;
3. floor plans showing the proposed and existing office arrangements, including contractor space;
4. whether the proposed relocation is intended to be temporary or permanent and the expected duration of residency in temporary space;
5. information concerning anticipated changes in provision for OPEIU office space, parking facilities, lunch facilities, security provisions;
6. health and safety testing and results, if any;
7. proposed implementation schedule; and
8. any proposed written employee notices

B. Discussions

The Parties will meet within 10 workdays of the Union's receipt of the relocation notification to address/negotiate any Union concerns. Implementation of the portion(s) of relocation impacted by concerns not resolved will be delayed until negotiations are completed.

C. Order of Assignment or Offices

1. Identification of employees working in each ORO/OSTI functional unit (e.g. Branch, Team) will be determined based on assignments made by Management.
2. During a major relocation, bargaining unit employees will be given the opportunity to select

office spaces within functional units based on SCD.

3. When Management directs other relocation of an employee(s), the employee(s) being relocated may choose a vacant office or, based on seniority, may elect to displace the employee within the functional unit with the lowest SCD.
4. Offices which are structured for a specialized purpose (e.g., payroll, health station) will be exempt from the selection process.
5. When an employee has been voluntarily assigned to a position in a functional unit, the employee will be placed in a vacant office within that functional unit.
6. Current employees within the functional unit will be given the opportunity to move into vacated office(s) within the same functional work unit based on SCD.
7. Bargaining unit employees on details or temporary promotions will be given the opportunity to move to another office, so as to be co-located with their new functional unit, if there is all existing vacant office.
8. A bargaining unit employee relocating into a functional unit where a contractor is occupying an office in space designated for Federal employees will have preference for that office.

SECTION 5 EMPLOYEE SURVEYS

Bargaining unit employees can complete any survey being conducted by a Federal agency on duty time. Participation in any survey is voluntary. The Union shall be provided with the geographical/organizational distribution of surveys if the Employer is aware of such information. If the Employer is provided or obtains survey results before they are published, the Union will be afforded an opportunity to review the results. The Union shall be provided with a copy of the survey results at the same time the results are distributed to Management.

ARTICLE 14 PAST PRACTICES

SECTION 1 DEFINITION

A *past practice*, for purposes of this Article, is defined as a personnel policy, practice, or working condition which has existed for such a period and in such a manner as to establish a formal or tacit understanding and acceptance of the practice by the Employer and employees.

SECTION 2 CHANGE

It is agreed that practices which exist on the effective date of this Agreement, but are not specifically covered by it and do not contravene its terms, shall not be changed except by mutual consent of the Parties.

SECTION 3 CORRECTION OF PROBLEMS

This Article shall not apply to changes which result from bringing individual variances into line with group practices or from correcting deviations from this Agreement or from governing-laws and regulations.

SECTION 4 INTEGRITY OF AGREEMENT

Nothing in this Article shall serve to contravene the other written terms of this Agreement.

ARTICLE 15 SUCCESSORS

SECTION 1 SUCCESSOR EMPLOYER

In the event that another organization succeeds ORO/OSTI as the *Employer*, it is expected that the successor will adhere, as far as practicable, to the personnel policies and practices and matters affecting working conditions, including dues withholding, provided in this Agreement until the *successor* has fulfilled its bargaining obligation with the Union.

SECTION 2 REPRESENTATION QUESTIONS

In the event of a reorganization in which a question of successorship or representation or a question as to the appropriateness of the bargaining unit arises, the gaining Employer is expected to maintain recognition of the Union and adhere to the terms of this Agreement, including dues withholding as far as practicable, until the above questions are resolved.

SECTION 3 UNION REORGANIZATION

In the event that another labor organization, as defined in 5 U.S.C. 71, succeeds the *Union* due to merger, reorganization, or a change in name, this Agreement shall remain in full force and effect.

PART II

PERSONNEL ADMINISTRATION

ARTICLE 16 POSITION CLASSIFICATION

SECTION 1 POSITION DESCRIPTIONS

A. General

Within 30 calendar days of filling a position, employees will be provided with a position description which accurately reflects the principal duties, responsibilities, and supervisory relationships involved.

B. Changes in Job Duties

When changes occur in the regularly assigned principal duties, responsibilities, or supervisory relationships of any position, the supervisor will amend the position description to accurately reflect such change. A copy shall be provided to the employee and the Shop Chair. Union Representatives will be given official time to review position descriptions for changes.

C. Disputes Over Accuracy of Position Descriptions

If an employee believes that his/her position description is not accurate, he/she may request a review by the appropriate supervisor and may be assisted by a Union representative. A dispute regarding the accuracy of an employee's duties may be handled under Article 11 of this Agreement.

SECTION 2 NOTIFICATION OF CLASSIFICATION AUDITS

The Employer will provide the affected bargaining unit employee(s) and the Chief Steward with at least 3 workdays notice of each classification audit to be conducted by the ORO Human Resources staff. The employee may waive this notice at his or her option and request that the audit be scheduled sooner.

SECTION 3 OUTSIDE CLASSIFICATION AUDITS

A. Notice to Union

The Employer will provide the Chief Steward with timely notice of personnel management evaluation reviews conducted by any agency or organization outside ORO/OSTI which will involve outside classification audits with bargaining unit employees.

B. Classification Audit Results

The Employer will provide the Chief Steward with a summary of the findings of such classification reviews of bargaining unit positions.

SECTION 4 CLASSIFICATION REVIEW

A. Request for Review

An employee may request that the Human Resources Division review the classification of his or her position at any time if the position has not been audited within the past 12 months. If the position has been audited within the past 12 months, the Employer is not obligated to conduct such a review. A classification review will be completed in 60 days of receipt of (1) a position description certified by the employee and the supervisor for accuracy, or (2) the position description of record along with a list of the duties and/or Factor Evaluation System factors which the employee considers inaccurate or not included in the position description of record. By mutual agreement, the time limit for the classification review may be extended.

B. Contents of Request

Such request must be in writing and must include the reasons for alleging that the position is improperly classified, i.e., change in assigned duties, level of complexity of work, independence of action, etc. Where no agreement is reached between the employee and the supervisor as to the accuracy of the position description, the employee may submit a copy of the signed position description of record along with a list of the duties and/or Factor Evaluation System factors which the employee considers inaccurate or not included in the position description of record.

C. Process for Review

If requested, the classifier will inform the Union of the standards and/or other materials used to classify the position. Materials/ standards used by the classifier but not available on the Internet or from the employee will be provided to the Union. The final signed classification/ position evaluation statement, if prepared, will be provided by the classifier to the Union, if requested.

SECTION 5 CLASSIFICATION APPEALS

A. Appeal Route

1. A General Schedule employee may appeal the classification of his or her position at any time to ORO/OSTI, DOE, or the Office of Personnel Management (OPM), as appropriate.
2. OPM guidelines require that a wage-grade employee must appeal to DOE Headquarters before appealing to OPM.

B. Retroactivity

An appeal filed within 15 calendar days from the date of a downgrading action will preserve an employee's right to retroactive restoration of any loss of pay if the appeal decision is favorable to the employee. The term appeal as used herein means a simple written statement such as "I am appealing" followed by a fuller written explanation within 14 calendar days,

C. Official/Reasonable Time

Employees and their representatives, if applicable, may use official/reasonable time in the preparation of classification appeals only for the following purposes:

1. Discussions with supervisors or the Human Resources staff on such topics as job duties and responsibilities, the classification systems in general, or the interpretation of standards.
2. Obtaining and/or reviewing classification standards and other pertinent documents and records.
3. Representing a bargaining unit employee in preparation for, and attendance at, desk audits in accordance with the provisions of Article 8 of this Agreement.

SECTION 6 INFORMATION SERVICES

In cases of downgrading actions, the Employer will continue the practice of fully informing the affected employees concerning appeal rights, procedures, options, time limits, forms, and grievance rights.

ARTICLE 17 MERIT STAFFING

SECTION 1 GENERAL PROVISIONS

A. Merit Staffing Program

The Parties hereby adopt the Integrated Support Center (ISC) Handbook which encompasses the ORO Merit Promotion Plan for bargaining unit positions.

B. Revisions in Program

1. No revisions will be implemented in the ORO Merit Promotion Plan which will affect bargaining unit positions until the Union has been given the opportunity to discuss or negotiate, as appropriate, on such proposed changes.
2. The Parties agree that if and when the ORO Merit Promotion Plan is revised to reflect the provisions agreed to in this Article, it will become effective immediately.

C. Administration of the Program

The Merit Promotion Plan will be administered in an equitable and consistent manner within the restrictions imposed by the ISC Handbook, other governing laws, regulations, and this Agreement.

Selections for bargaining unit positions will normally be made within 45 days of the closing date of the vacancy announcement.

D. Statutory Appeals

In cases involving prohibited personnel practices as defined in 5 U.S.C. 7121(d) (alleged discrimination), employees shall retain their rights to appeal *either* through the negotiated grievance procedure or through a statutory procedure, but not both.

SECTION 2 COMPETITIVE/NON-COMPETITIVE PERSONNEL ACTIONS

A. Limitation on Non-Competitive Promotions

1. Selections resulting in the promotion of an employee because of the assignment of additional duties and responsibilities will be made competitively if:
 - a. Other employees in the bargaining unit would be unduly deprived of the opportunity to compete for higher-graded positions; and
 - b. The accretion of new duties is the result of planned Management action and a vacancy exists; or
 - c. Such promotion would result in a change in organization.
2. Career promotion resulting from an employee's current position being reclassified at a higher grade because of additional duties and responsibilities may be taken without regard to the competitive procedures provided: (1) that the accretion of duties did not result from planned

Management action or (2) that no actual vacancy exists within the employee's current organization. The promotion must not be more than one grade above the current grade for one-grade interval occupations or two grades above the current grade for two-grade interval occupations. Such career promotions are prohibited if the accretion of higher-graded managerial, supervisory, or work leader duties and responsibilities is to a position which is not already classified as that of a manager, supervisor, or work leader, respectively. When non-competitive promotion actions are effected in accordance with this paragraph, the OPEIU Shop Chair will be notified.

B. Effective Date(s) of Promotions

1. Employees in career ladder positions will be promoted on the first pay period after:
 - a. The employee becomes eligible to be promoted (after one (1) year, or whatever lesser period satisfies regulatory requirements); and
 - b. The employee has received an overall rating of "Meets Expectations" in the current Rating of Record.
2. Employees selected for competitive promotions will be promoted as soon as possible after selection; however, normally not later than the third pay period.

C. Temporary Promotions

Temporary promotions not exceeding 120 days may be made without regard to competitive procedures. The 120-day limitation includes prior service within the preceding 12 months under all details to higher-graded positions and all temporary promotions.

D. Issues

Either the Employer or the Union may request a meeting to define and reach agreement on issues pertaining to the provisions of this Article.

SECTION 3 MISCELLANEOUS STAFFING PROVISIONS

A. Performance as a Ranking Element

1. Supervisory appraisals made in connection with the Merit Promotion Plan will:
 - a. Be accurate and objective.
 - b. Contain ranking factors relevant to the duties of the vacancy.
 - c. Be grievable under this Agreement.
2. Employees have the right to review and comment upon the supervisory appraisal prior to its submission to the Human Resources Division.

B. Documentation of Experience

When an employee performs duties outside the position description of record and these duties are not otherwise documented through a detail or temporary promotion, the employee may submit written documentation through his/her supervisor. If the supervisor concurs with the employee's documentation, the supervisor will sign and forward to the Human Resources Division for inclusion in the employee's Official Personnel File. If the supervisor does not agree, the employee may grieve the action.

C. Posting of Vacancy Announcements

Vacancy announcements will be published on the Federal Human Resources Branch website www.oro.doe.gov/pmab for a minimum of 21 calendar days for all bargaining unit positions.

D. Selective Placement Factors

No selective placement factor may be established or used which:

1. Unduly restricts the number of eligible candidates;
2. Is not essential to successful performance;
3. Could be obtained through a brief period of training or adjustment, or learned in a reasonable period of time, generally held to be 90 days;
4. Requires formal education;
5. Increases the amount of specific or general experience requirements listed in OPM guidelines; or
6. Is inappropriate for the grade and type of position to be filled.

E. Priority Placement Referrals

Upon request, the Human Resources Division will give bargaining unit employees the reasons for their nonreferral for specific positions.

F. Temporary/Permanent Reassignments

1. Employees may request to be reassigned or not to be reassigned at any time. The Employer shall consider such requests. Management will make a good faith effort to reassign, on request, an employee who demonstrates that a hardship exists, provided a position which Management chooses to fill is available.
2. Voluntary solicitation of interest shall be used as the first means to fill temporary reassignments to site offices.

SECTION 4 INFORMATION SERVICES

A. Union Access to Promotion Files

1. The Union's Shop Chair, Chief Steward, and Assistant Chief Steward may have access to information in merit promotion files on bargaining unit vacancies to the extent allowable under

governing laws and regulations.

2. Access will be allowed to the extent necessary and relevant for the Union's representational needs.
3. The Employer will inform the Union of the types of information, if any, that have been sanitized from the files.
4. Disputes over whether the information requested is necessary and relevant under (2) above will be subject to the negotiated grievance procedure.

B. Information on Selections

1. The Employer will send the Chief Steward notice of selections for posted bargaining unit positions.
2. The Employer will send the Chief Steward notice of posted bargaining unit vacancies not filled. If a vacancy announcement is canceled, the reason for the cancellation shall be provided to the Chief Steward.
3. The Union may inspect any certificate (unsanitized) for posted bargaining unit positions on request.
4. Bargaining Unit employees who applied for a Bargaining Unit position will be notified of non-selection of that position within 5 workdays of the selectee accepting the position.

SECTION 5 MERIT PROMOTION PROGRAM REVIEW

The Employer will conduct an annual review of the Merit Promotion Program. Input from the Union will be solicited as part of this review, and the findings of the review, including statistical information, as it applies to bargaining unit positions will be discussed with the Union.

SECTION 6 DETAILS/TEMPORARY PROMOTIONS

A. Definition

A *detail* is the temporary assignment of an employee to a different position for a specified period, with the employee returning to his or her regular duties at the end of the detail. A position is not filled by a detail, as the employee continues to be the incumbent of the position from which detailed. A *temporary promotion* is the temporary assignment of an employee to a higher-graded position for which the employee meets basic qualifications.

B. Use/Procedures

1. Details will be used only to meet the legitimate staffing needs of the Agency, as discussed in OPM guidelines, and will not be used to compromise the open competitive principle of the merit system.
2. Employees temporarily assigned to higher-graded positions will be given a temporary promotion when the employee meets basic qualifications at the time of the assignment; however, if the employee does not meet basic qualifications for the higher-graded position, the assignment will be processed as a detail. Competition is required for temporary promotions exceeding 120 days.

3. Prior to initiating extensions of details to higher graded positions, qualifications will be reviewed to determine if a temporary promotion should be considered. If the supervisor is aware that the employee would become qualified during the detail period, the termination date of the initial detail will be adjusted accordingly.
4. The Union will be notified when a bargaining unit employee is detailed to a position with unclassified duties. Details to unclassified duties will be limited to 120 days. Supervisors will ensure that these duties are properly described and position descriptions forwarded to the Human Resources Division for classification within 60 days after the beginning date of the detail and classification be completed within 120 days. Exceptions to this policy will be discussed with the Union. Employees serving on Source Evaluation Boards will be exempt from the 120-day limitation.
5. Bargaining unit employees detailed or temporarily promoted to positions outside the bargaining unit are excluded from the bargaining unit for the duration of the detail and may not be represented by the Union or participate in its management. Employees detailed or temporarily promoted to positions outside the bargaining unit may not file grievances under the negotiated grievance procedure nor may they represent other bargaining unit employees. Grievances on the detail/temporary promotion action or on other issues which occurred prior to the effective date of the detail/temporary promotion may be processed under the negotiated grievance procedure.

C. Recording Details

Details in excess of 30 calendar days will be recorded on an SF-52, Request for Personnel Action. A copy of the SF-52, including a brief statement of the duties to which detailed, will be given to the employee. The following information will be provided to the Union if requested:

1. Name;
2. Title, series, and grade of position from which detailed;
3. Title, series, and grade of position to which detailed, or brief statement of work on unclassified positions;
4. Organizations involved; and
5. Dates of detail.

D. Details of Union Officials

1. The term Union Official for purposes of this subsection includes shop stewards, elected officers, shop committee persons, and officially appointed Union Representatives to labor-management committees such as the Safety Committee.
2. Prior to detailing any Union official, the Employer will give due consideration to both the work priorities and the official's representational duties.
3. The Employer agrees that the Shop Chair, Chief Steward, and Assistant Chief Steward will not be placed on special assignments or details outside the bargaining unit unless an exigent need exists. If a Union official is to be detailed outside the bargaining unit, the Employer will notify the Union promptly after the decision is made. Upon request, the Employer will meet with the Union to discuss the reasons for the detail, its expected duration, and the anticipated impact the detail will have, if any, on the Union official's ability to carry out his or her Union duties.

Management will make a good faith effort to mitigate Union concerns.

ARTICLE 18 PROBATIONARY AND TEMPORARY EMPLOYEES

SECTION 1 PROBATIONARY EMPLOYEES

Probationary employees may have access to the negotiated grievance procedure to the extent that procedural protections established by negotiation do not exceed those required by Title 5 Code of Federal Regulations, Part 315.

SECTION 2 TEMPORARY EMPLOYEES

A. Definition

For purposes of this Section, the term *temporary employee* includes employees serving on noncareer appointments or noncareer-conditional appointments of the following types:

1. Term appointments;
2. Temporary time-limited appointments of 180 calendar days or more;
3. Veteran's Readjustment Appointments (VRA);
4. Temporary appointment pending establishment of a register (TAPER);
5. Schedule A Handicapped Appointments;
6. Disabled Veteran Appointment;
7. Any other nonpermanent, nonstudent appointment where the employee has a reasonable expectancy of regular employment for a substantial period of time.

B. Use of Temporary Appointment

1. The Parties recognize the Employer's right to hire temporary employees to meet its needs and society's goals.
2. The Employer agrees that temporary appointments will not be used to unduly deprive bargaining unit employees of promotion opportunities.

ARTICLE 19 CONSULTANTS, EXPERTS, AND CONTRACTING OUT OF BARGAINING UNIT WORK

SECTION 1 GENERAL PRINCIPLES

The Employer will comply with DOE Order 3304.1A, which governs the use of experts and consultants. The Employer will also comply with the laws and regulations governing contracting out of bargaining unit work, including OMB Circular No. A-76 and all revisions thereto.

SECTION 2 NEGOTIATIONS ON IMPACT AND PROCEDURES

When the Employer decides to contract out any function performed in the bargaining unit, the Parties will meet at the request of either party to bargain on negotiable aspects of any resulting work changes and on appropriate arrangements for employees adversely affected. If impasses arise during such negotiations, they may be referred to the Federal Services Impasses Panel (FSIP) for resolution. Disputes over the negotiability of a specific proposal may be referred to the FLRA.

SECTION 3 ADVERSE EFFECTS ON CONTRACTING OUT

A. General Statement

It is the intent of the Parties to alleviate, to the fullest extent practical, any adverse effects which may result from a decision to contract out a particular function.

B. Personnel Actions

When a decision is made to contract out that will result in the dislocation of bargaining unit employees, the following procedures will apply:

1. The fullest consideration will be given to the directed reassignment of affected employees.
2. When an employee is not reassigned, the procedures outlined in Article 20, *RIF and Transfer of Function*, shall apply.
3. Prior to adding any work to an existing contract, Management will provide the Union with details as to the scope of work and the number of positions affected.
4. The Employer will assist any employee who has received a reduction-in-force (RIF) notice, who is eligible and who wishes to apply, in applying for a discontinued service annuity.
5. Affected employees will be granted a reasonable amount of time for employment interviews outside the Department, without charge to pay or leave, in accordance with the ORO Employee Handbook.

SECTION 4 INFORMATION SERVICES

A. Contracting Out

1. When the Employer commissions an A-76 Study, the employees in the work group or organization to be studied will be promptly notified. The Employer will keep the Union fully informed of any study or planned study to contract out any function of its operations.
2. When the Employer decides to contract out a function and such decision will result in work changes or have an adverse impact on any bargaining unit employee, the Union and affected employees will be promptly notified.
3. When an A-76 Study has been completed, the Employer will promptly forward three (3) copies to the Union: one copy each for the Local Union Shop Chair, the Chief Steward, and the shop steward for the affected areas.

B. Preferential Placement

When the Employer commissions an A-76 Study or, in the absence of such a Study, decides to contract out a bargaining unit function, it will promptly forward to each employee in the work group or organization to be studied a synopsis of employee rights to preferential hiring under OMB Circular A-76 and other applicable laws and regulations.

C. Right to Severance Pay

Severance Pay provisions will be maintained as a link on the ORO Human Resources Division web site and the link will be titled "Severance Pay". The parties agree that the Office of Personnel Management website will serve as the source of the data for this link.

ARTICLE 20 RIF AND TRANSFER OF FUNCTION

SECTION 1 REDUCTION IN FORCE

A. Definition

1. A *Reduction in Force (RIF)* occurs when the Employer must release employees from their competitive levels by separation, demotion or furlough for more than 30 days, or reassignment requiring displacement, and such action is due to lack of work or funds, reorganization, reclassification due to change in duties, or the need to make a place for a person exercising reemployment rights.
2. *Bumping* means displacing an employee in the same competitive area who is in a lower tenure group or in a lower subgroup within the released employee's own tenure group. Although the released employee must be qualified for the position, it may be a position that he or she has never held.
3. *Retreating* means displacing an employee in the same competitive area who has less service within the released employee's own tenure group and subgroup. The positions may be up to five grades (or grade intervals) lower than the position held by the released employee if he or she is in the same subgroup. The position into which the employee is retreating must also be the same position (or an essentially identical position) previously held by the released employee in any Federal agency on a permanent basis.

B. Applicable Regulations

1. RIF actions will be accomplished in accordance with OPM and DOE-wide regulations.
2. Assignment rights will be determined in accordance with the provisions of 5 CFR 351, Subpart G.

C. Notification to the Union

1. When the Employer initiates RIF planning, the Union will be notified. The Managers of ORO and OSTI or their designees will meet with the Union Shop Chair and the Union Chief Steward weekly to discuss any changes in the planning of the RIF.
2. When the Employer has determined that a RIF will be necessary, the Union will be notified at least 30 calendar days prior to the date when RIF notices are to be given to the employee(s). This 30 calendar day notice period will be abrogated only when the Employer has not received information which makes the RIF necessary in time to provide this notice and when a delay in the effective date would result in more employees being adversely affected by the RIF.
3. This notification will be in writing and will include the following information:
 - a. Reason for the RIF;
 - b. Approximate number of employees that will be affected initially;
 - c. Competitive areas and levels that may be involved initially in a RIF;
 - d. Anticipated effective date that action will be taken.

4. Information on the exact positions to be abolished will be provided to the Union by tile Principal Management Contact as soon as this information is available to the Contact but, in any case, prior to the commencement of any bump and retreat exercise. This information will include a list of ORO and OSTI positions to be abolished, tile position description numbers, the position titles, and the organizations to which the positions are assigned.
5. The Employer will provide OPEIU with two copies of the applicable ORO and OSTI master retention list(s) and the final retention register(s) prior to the conduct of a RIF and with updated information concerning the RIF (such as additional positions affected, revised implementation dates, etc.), as soon as such information is available, but in any case prior to delivery of RIF notices. All information supplied to the Union for ORO and OSTI employees will be prepared and presented in the same format/manner. OPEIU recognizes that retention registers contain confidential information and hereby agrees the said confidential information will be used solely for the purpose of representational duties and responsibilities and will not be released or disclosed except for purposes related to representational duties and responsibilities.
6. Prior to the issuance of RIF notices, the Employee will provide OPEIU with a list of all bump and retreat actions taken and a list of all employees who will leave the payroll. OPEIU recognizes that such information is confidential and will use it solely for the purpose of representational duties and responsibilities and will not release copies of or disclose information contained in the list except for the purposes related to representational duties and responsibilities.
7. Six months after a RIF, the Employer will provide OPEIU with a report containing the numbers and series of employees rehired by the Employer, including all new employees. Thereafter, the Employer will provide OPEIU with a copy of the annual Career Transition and Assistance Program (CTAP) report.
8. The Union shall be notified as to the number of vacant positions that the Employer has authorized for staffing when a RIF has become necessary.
9. The Union will be provided a copy of: (1) the most recent ORO and OSTI program direction budget submission for the current fiscal year, and access to (2) the complete ORO/OSTI budget, (3) congressional reports and bills for the current fiscal year appropriations applicable to DOE, and (4) future year's ORO and OSTI program direction budget submissions which are available for release (which are not considered embargoed information).

D. Negotiations on Impact and Procedures

The Parties will meet at the request of either party to bargain on negotiable aspects of the procedures used to carry out a RIF and on appropriate arrangements for employees adversely affected. If impasses arise during such negotiations, they may be referred to the FSIP for resolution. Disputes over the negotiability of a specific proposal may be referred to the FLRA.

1. The Employer agrees to attempt to avoid or minimize the impact of a RIF by taking actions which would include, but not be limited to, the following:
 - a) Use attrition to accomplish staff reductions and other means of cutting costs to the extent possible before conducting a RIF;
 - b) Prior to effecting the RIF, the Employer shall eliminate immediately all recruitment efforts and place qualified employees otherwise to be separated by RIF in vacant positions in the

- competitive area, provided there is a current need and ability to fill such vacant positions as determined by the Employer;
- c) Restrict non-career ladder promotions to the extent possible;
 - d) Whenever applicable, conduct a cost study to determine whether less costly alternatives to a RIF are available, specifically:
 - i. Instituting a furlough;
 - ii. Conducting a retraining program;
 - iii. Significantly reducing travel cost;
 - iv. Significantly reducing training cost; and
 - v. Significantly reducing other miscellaneous expenditures.
 - e) Before the initiation of this study, the OPEIU will be consulted as to methodology of the study. A copy of the study will be provided to the OPEIU within 3 days of its completion. The OPEIU will be afforded an opportunity to comment on this study when a determination has been made that a RIF is necessary.
2. The Employer will submit a request for early out authority from OPM through DOE Headquarters. This request will be made as soon as possible, but no later than 15 days after the RIF planning has begun.
 3. If Voluntary Separation Incentives (VSI) are available through legislation, the Employer will offer a VSI to all employees who meet the criteria mandated in the authorizing legislation and the approved DOE plan. The number of buyouts offered and approved will be based on funds availability; cost savings from VSI; and mission, program, and skill mix requirements. Based on those same factors, the Employer will consider granting requests from employees in a position not eligible for a VSI for a transfer to a qualified position in order to take advantage of the VSI. When considering the request, the Employer will determine if the non-eligible position could be filled by another ORO/OSTI employee who is qualified for the position or could become qualified within a reasonable period. When time permits, notice will be sent out to all employees to request qualified applicants to voluntarily backfill the position to be vacated. Any costs associated with the employee becoming qualified will be taken into consideration when evaluating the VSI cost savings of the incumbent. If there are more qualified employees desiring a VSI than the number available: then the VSI will be awarded to the senior persons based on SCD adjusted by 1 year for each \$ 1,000 in cost savings. Receipt of a RIF notice does not disqualify an employee from being approved for a buyout.
 4. An employee may withdraw his/her resignation or retirement application, including under a VSI, at any time before it has become effective. The Employer may decline a request to withdraw such application before its effective date *only* when the Employer has a valid reason and explains that reason to the employee. A valid reason includes, but is not limited to, administrative disruption or tile hiring or commitment to hire a replacement. A avoidance of adverse action proceedings is not a valid reason.
 5. When any bargaining unit employee is tied in retention standing with another employee, e.g., two employees in the same subgroup have the same SCD, and one or more but not all tied employees must be released from the competitive level, the Employer shall first ask for volunteers. If there are no volunteers, the tie will be broken on the basis of:
 - a. Length of DOE service; and if a tie remains,
 - b. Time within grade; and if a tie remains,
 - c. By lottery (OPEIU will conduct, with Management and affected employees present).

6. An employee who has been offered a position due to a RIF or transfer of function will be given 7 calendar days to accept or reject the offer.
7. Employees who are RIFFED while in an approved training class will be reimbursed upon successful completion of the class as described in DOE Orders.
8. If the work or a portion of a RIFFED employee's work is to be transferred to another employee, the Employer will provide the Union with all information related to the transfer of such work and will bargain with the Union on appropriate arrangements for employees impacted by the transfer of the work. The Parties agree to meet and discuss within 10 days from the date the Union is notified of the proposed transfer of work.
9. When the determination is made that a function assigned to a position to be abolished will be incorporated into an existing contract, Management will negotiate with the contractor regarding: (1) the number of additional positions required to perform the work, if any, and (2) arrangements for "first refusal" options for displaced Federal employees. Prior to adding any work to an existing contract, Management will provide the Union with details as to the scope of work and the number of positions affected.

E. Career Transition and Assistance Program

1. If a RIF becomes necessary, the Employer will conduct a diligent placement assistance program in accordance with the DOE CTAP, both inside and outside the Department, which shall be available to all employees to be adversely affected in the RIF.
2. The Human Resources Division will provide technical advice to employees on resume and application preparation upon request.
3. The Employer agrees to grant administrative leave to employees who receive a RIF notice for the purpose of counseling, job search, resume preparation or time spent at the out placement center.
4. ORO/OSTI agree that relocation of employees covered under the bargaining Agreement who are RIFFED is in the best interest of the government.
5. ORO/OSTI agree to provide a listing of the positions held with dates in each position for each RIFFED bargaining unit employee. In addition, ORO/OSTI agree to provide the Union with a list of all DOE prime contractors along with a human resources contact for each.
6. A copy of the Priority Placement and Career Transition and Assistance Manual will be provided to all bargaining unit employees.
7. The Union and Management will jointly develop and present one or more workshops on the CTAP Program for all interested employees within 120 days after signing this Agreement. In addition, all bargaining unit employees who have received a Notice of Separation through RIF will be given the opportunity to attend another joint workshop on CTAP
8. Employees in receipt of a Notice of Separation through RIF will be provided .with current toll-free and other telephone numbers to access employment information. During the RIF planning process, all employees will be notified about access to current job listings and pertinent telephone numbers and/or web sites as part of the RIF communication process.
9. When current bargaining unit applicants have been determined well qualified under CTAP provisions for a position, ORO/OSTI will make job offers as follows:"
 - a. Current bargaining unit applicants from the local commuting area based upon highest retention standing with ORO/OSTI.
 - b. Current bargaining unit applicants from outside the local commuting area based on highest

- retention standing with ORO/OSTI.
- c. Former U.S. government employees from the local commuting area based on highest retention standing with the U. S. government.
 - d. Former U. S. government employees from outside the local commuting area based on highest retention standing with the U.S. government.
10. If a current bargaining unit employee is deemed not well qualified as defined in the Priority Placement and CTAP policy, a written justification will be given to the applicant.
 11. The Parties accept the Priority Placement and CTAP dated August 20, 1997, as a part of this Agreement.

F. Retraining

1. The Employer will offer formal position and occupational training to employees adversely impacted by a RIF in accordance with the provisions of the CTAP and this Agreement.
2. The Employer agrees to give consideration to the temporary assignment of adversely affected employees, based on highest retention standing, to other available positions within the unit for retraining purposes. Permanent assignment to such a position would depend on the employee attaining a "meets expectations" rating during the period of temporary reassignment not to exceed 120 calendar days. An *adversely affected employee* for the purpose of this Section is defined as an employee who is to be involuntarily separated, furloughed or reduced in grade or pay. It is understood that this does not apply to disciplinary actions or to actions based on performance.

SECTION 2 TRANSFER OF FUNCTION

A. Definition

A *transfer of function* is defined as the transfer of the performance of a continuing function from one competitive area and its addition to one or more other competitive areas, or a movement of the competitive area in which the function is performed to a different commuting area. When an employee's work transfers, he or she is entitled to transfer with it if lack of an opportunity to do so would result in his or her demotion or separation.

B. Identification of Positions

1. Management will make a good faith effort to place bargaining unit employees who do not want to transfer into vacant positions which will preserve their current career ladder opportunities.
2. If an employee's position is identified for transfer and the employee does not want to transfer, Management will request volunteers for the transfer. If qualified for the volunteer's position, the originally identified employee will be placed in the position vacated by the volunteer.
3. If the total number of employees who volunteer for transfer exceeds the total number of employees required to perform the function in the competitive area that is gaining the function, the losing competitive area will give preference to the volunteers with the highest retention standing.

C. Placement Assistance

1. The Employer will conduct a diligent placement assistance program, both inside and outside the Department, for bargaining unit employees who do not accept transfer and who are separated for failure to transfer. This assistance will continue until the employee accepts other employment or until 1 year from the date of separation, whichever is earlier.
2. Under OPM guidelines, employees who are separated for failure to transfer with their position may not be placed on the reemployment priority list.

SECTION 3 UNION'S ROLE IN ACCOMPLISHMENT OF AGENCY MISSION

The Employer recognizes the efforts of Union Representatives as important in promoting a quality workplace and the Union Representatives' role in assisting the Employer in the accomplishment of its mission. To assure that bargaining unit employees have sufficient representation, the Employer will make a temporary exception under 5 CFR 351.608 to extend the Shop Chair's and the Chief Steward's separation date 60 days beyond the effective date of the RIF. Decisions as to the number of additional shop stewards to be retained in order to provide adequate representation for impacted employees will be made jointly by the Shop Chair and the Principal Management Contact. The temporary retention of a shop steward shall not adversely affect the rights of any higher standing employee who is released ahead of a shop steward with lower retention standing. Shop stewards will balance official time with the duties of their positions of record during the extended time in accordance with the provisions of Article 8.

ARTICLE 21 PERFORMANCE APPRAISAL

SECTION 1 GENERAL

A. Basis for Appraisals

Performance appraisals shall be based on merit and competence as measured by established performance standards. Performance appraisals and the determinations deriving there from shall be made in an impartial manner and without regard to race, color, religion, gender, national origin, age, handicap, marital status, political affiliation, or Union membership.

The goals and / or focus areas that are attached to an employee's performance appraisal will be related to the duties and responsibilities in the line of work of the employee's position.

B. Program Administration

ORO and OSTI employees will be rated under the performance management system established by the Department. The Performance Management Program will be administered in a consistent and equitable manner.

C. Rating Officials

The Parties recognize that rating of employees is a Management function. Members of the bargaining unit shall not be allowed or required to evaluate other members of the bargaining unit for rating purposes. When bargaining unit members are temporarily promoted to supervisory positions, they may be required to evaluate other members of the bargaining unit for rating purposes. Likewise, when members of the bargaining unit are temporarily promoted into "lead" positions, they may be required to provide formal input into the rating process.

SECTION 2 PERFORMANCE STANDARDS

A. Setting Standards

Performance standards shall be set in accordance with the provisions of the Department's Performance Management System. Performance standards established by the Employer shall be applied to individual employees in a fair and just manner.

B. Consistency of Standards and Plans

1. Performance Standards and subelements established by the Employer shall be consistent with the position description for the position.
2. Performance plans for similar or identical positions will be consistent throughout the bargaining unit. Variances will be based on real differences in the assigned work duties of each position.
3. The subelements contained in the employee's performance standards will not contain any

subelements unless mandated by law.

SECTION 3 CORRECTION OF UNACCEPTABLE PERFORMANCE

When a supervisor determines that an employee's performance is likely to result in a rating of "Fails to Meet Expectations," the supervisor will immediately notify that employee. Prior to scheduling discussions with bargaining unit employees regarding unsatisfactory performance, the supervisor will advise the employee of the nature of the discussion and issues to be addressed. If the employee wishes to have a Union Representative in attendance at the discussion, the supervisor will schedule the discussion to accommodate this request. Performance discussions will be conducted in accordance with applicable laws and DOE regulations.

SECTION 4 OFFICIAL TIME

Use of official time and approved absences for labor relations activities shall not be used as a factor in employee performance appraisals. The employee will notify the supervisor of any known deadlines that may be impacted while on official time.

SECTION 5 PERFORMANCE MANAGEMENT STATISTICAL INFORMATION

1. The Employer will provide the Union's Shop Chair with certain performance appraisal statistical information within 60 days of the end of each rating period. This information will be broken down by Division. Organizational units may be combined as necessary to ensure privacy of individuals.
2. The following information will be provided:
 - a. Breakdown of appraisal ratings;
 - b. Number of bargaining unit employees receiving quality step increases;
 - c. Number of bargaining unit employees reduced in grade or pay during the year because of unacceptable performance;
 - d. Number of bargaining unit employees reassigned because of unacceptable performance.
3. The Employer will provide the Union with one copy each of specific performance standards for unit positions, if requested.

ARTICLE 22 ACTIONS BASED ON PERFORMANCE

SECTION 1 COVERAGE

This Article covers the following types of actions:

1. Adverse actions based on performance, including reductions in grade or pay and removals for performance reasons;
2. Withholding of within-grade increases (WIGI); and
3. Reassignments because of a "does not meet expectations" performance rating.

SECTION 2 GENERAL PROVISIONS

A. Adverse Actions

Adverse actions under this Article are taken only for failure to meet one or more critical element of a position. Such actions will be processed in accordance with Departmental/ORO/OSTI Procedures; and this Agreement.

SECTION 3 REPRESENTATION RIGHTS

A. Adverse Actions

The employee is entitled to a Union Representative during the response period specified in any notice of proposed action. The employee and the representative, if applicable, shall be given official/reasonable amount time to review the material relied on to support the action; to prepare an answer; to present an oral response; and to secure affidavits, to the extent the employee and the representative would otherwise be in a duty status.

B. Withholding of Within-Grade Increases

The employee is entitled to a Union Representative upon receipt of a notice of negative determination. The employee and the representative, if applicable, shall be given official/reasonable amount time to review the material relied on to support the negative determination; to prepare an answer; to present an oral response; and to secure affidavits, to the extent the employee and the representative would otherwise be in an active duty status.

C. Meetings on Performance Actions

Employees are entitled to Union representation, if requested, at meetings with a supervisor or other Management Official in which an adverse action or notification of a withheld WIGI is to be, or becomes, the topic of discussion and during counseling sessions where the supervisor overtly raises the possibility of adverse actions or a withheld WIGI as a consequence of continued poor performance. Performance discussions will be conducted in accordance with applicable laws and regulations.

SECTION 4 CONSTRUCTIVE PROCEDURES FOR PERFORMANCE- BASED ADVERSE ACTIONS

A. Constructive Approach

The Employer will take a constructive approach to correcting performance difficulties which might lead to employee reduction in grade or pay or removal. Performance-based actions shall be taken progressively. Options for reassignment and/or reduction in grade will be examined prior to removal; information from the examination will be provided to the employee prior to removal. A bargaining unit employee whose reduction in grade or removal is proposed because of unacceptable performance is entitled to 15 calendar days to reply to the proposed action.

B. Counseling

When a supervisor determines that an employee's performance is likely to result in a need to establish a Performance Improvement Plan (PIP), the supervisor will promptly notify that employee. Before establishing a PIP, the Employer will assist employees in improving performance through counseling or, if appropriate, through training. The cost of any such training authorized by the Employer will be borne by the Employer.

C. Assistance in Improving Performance

1. If counseling fails to improve performance to the "meets expectations" level, the Employer will establish a PIP for a period of at least 90 days and in accordance with Departmental Policy.
2. This PIP will tell the employee what deficiency or deficiencies may lead to adverse action and will specify the standard or standards of performance which the employee must meet in order to meet expectations.
3. During the period specified in the written notification, the supervisor will counsel the employee on his or her performance.
4. As a means of assisting the employee to attain the required performance standard, the supervisor and the employee will jointly discuss various methods for improving performance. This discussion will be held within 5 workdays of the date the notice is given to the employee. In this discussion, the supervisor and the employee will attempt to agree upon which method or methods seem most likely to achieve the goal of improving performance to the "meets expectations" level.
5. A written summary of this discussion will be prepared by the supervisor, with a copy given to the employee, within 10 workdays of the date the notice is given to the employee. This provision for a written summary may be waived only in writing by the supervisor and the employee.

D. Review of Performance

1. Upon completion of the opportunity period, the employee must be afforded an opportunity to discuss performance and will receive a written evaluation of his/her performance.
2. If performance improves, the PIP will be removed from the employee's official performance

file after 1 year of improved performance or upon transfer outside the Department, whichever comes first. The employee will be notified by memorandum of the results of the PIP and will receive a formal performance appraisal for the rating period if the formal appraisal was postponed pending completion of the PIP.

3. If performance does not improve, the employee will be notified by memorandum that performance continues to not meet expectations. In addition, the employee will receive a formal performance appraisal for the rating period if the formal appraisal was previously postponed in favor of the PIP. Any resulting performance-based actions will be taken in accordance with DOE O 331.1B and this Agreement.

E. Performance Improvement Plan

1. Opportunity to Improve

- a. Performance Improvement Plans. A rating of record of "Fails to Meet Expectations" will be issued only if an employee has been given a PIP during the appraisal period.
 - 1) A PIP will be used by supervisors to establish an opportunity for employees to improve substandard performance and is not intended to be punitive. The PIP will:
 - a) Officially notify an employee of the need to improve performance;
 - b) Identify specific performance deficiencies;
 - c) Inform an employee of how performance may be improved;
 - d) Identify what the Employer will do to assist the employee in improving his/her performance; \
 - e) Communicate potential consequences of substandard performance; and
 - f) Establish a time frame for observing and reevaluating performance.
- b. When to Establish a PIP. A PIP must be established if, at any time, an employee's performance is determined to be deficient to the extent that it consistently fails to meet expectations. Isolated instances of poor performance do not necessarily require the issuance of a PIP. However, supervisors will, upon observance that poor performance is becoming a pattern, discuss performance deficiencies and the action needed to improve with employees. If such an informal approach does not result in improved performance, a PIP may be necessary. It is inappropriate to wait until the end of the rating-period to establish a PIP if significant performance deficiencies are identified in the midst of the rating cycle.
- c. Content. A PIP must be highly individualized and reflect specific performance deficiencies and improvement needed. PIPs must include the following:
 - 1) Employee's name, title, series, grade, and organizational location.
 - 2) Length of the opportunity period. The PIP will state the time allowed for improvement. Opportunity periods will be at least 90 days duration. The established length of the period will be sufficient to allow the employee a reasonable time to demonstrate improved performance, while at the same time continuing to perform normal duties and responsibilities.
 - 3) Identification of deficiencies and actions required to improve. The employee will be informed in writing of performance deficiencies in relation to a specific performance deficiencies and the specific performance needed to achieve a rating of "Meets Expectations." Deficiencies must be limited to performance during the current appraisal period. Any unclear performance standards will be clarified, if necessary. No additional

duties or expectations will be added under the PIP.

- 4) Feedback, ratings, and management assistance.
 - a) The PIP must include at least one date at approximately the midpoint of the opportunity period on which a formal progress review will be provided to the employee. Employees may request more frequent progress reviews.
 - b) Continued feedback is an important component of an opportunity period and supervisors will provide an appropriate level of assistance to help the employee improve performance. This assistance may include counseling, closer supervision, training, more frequent informal feedback, assistance in organizing or prioritizing workload, or examples of acceptable work products. As With regular performance appraisals, the employee will be given the opportunity to submit written comments regarding his/her performance for consideration by his/her Rating and Reviewing Officials.
- 5) Possible consequences of substandard performance. The PIP must advise the employee that continued performance which fails to meet expectations will result in the denial of the next WIGI. Employees must further be advised that such performance may result in a performance-based action which may include reassignment, reduction in grade, or removal.
- d. Completion of the Opportunity Period. Upon completion of the opportunity period, the employee must be afforded an opportunity to discuss performance and will receive a written evaluation of his/her performance-during the period.
 - 1) Performance improves. The PIP will be removed from the employee's official performance file after 1 year of improved performance or upon transfer outside the Department, whichever comes first. The employee will be notified by memorandum of the results of his/her PIP; and he/she will receive a formal performance appraisal for the rating period if the formal appraisal was previously postponed in favor of the PIP.
 - 2) Performance does not improve. A memorandum will be prepared to notify the employee that performance continues to not meet expectations. In addition, the employee will receive a formal performance appraisal for the rating period if the formal appraisal was previously postponed in favor of the PIP. Any resulting performance-based action will be taken in accordance with DOE O 331.1B. Such actions for bargaining unit employees will be taken in accordance with this Agreement.
- e. Certifications. Required signatures and forms used for the PIP, progress review, and final rating during an opportunity period will follow the same requirements which apply during the regular performance appraisal cycle.

F. Proposed Adverse Actions

1. Notice Period. All adverse actions based on performance shall require a notice period of at least 30 calendar days. Such notice period shall afford the employee a further chance to show improvement before an action is taken.
2. Response Period. There shall be a 15-workday response period for all notices of proposed adverse action issued under the terms of this Article.
3. Extension of Notice Period. In cases where an employee shows significant improvement during the notice period which may reasonably be expected to lead to acceptable performance, the Employer will extend the notice period for 30 additional calendar days.

4. *Cancellation of Proposed Action.* If, during the notice period, the employee achieves and maintains an acceptable level of performance which may reasonably be expected to continue, the Employer will not effect the proposed action.

G. Decisions on Proposed Adverse Actions

1. A written decision to retain, reduce in grade, or remove an employee shall be issued within 30 calendar days after the expiration date of the advance notice, response period, and extension, if applicable.
2. This decision shall be made by a higher-level official than the one who issued the proposal notice. The decision letter will state the performance deficiencies which have not been remedied during the notice period.

H. Due Process

1. Employee performance which occurred more than 1 calendar year prior to the date on which the employee received the letter of proposed adverse action will not be relied upon to support the proposal.
2. Employee performance not specifically identified in the notice of proposed action may not be relied upon to support the action.
3. When a bargaining unit employee receives a notice of proposed adverse action, the Union's Chief Steward will be promptly notified of the name, organization, action proposed, and proposed effective date.

I. Alternatives to Removal

Before taking action to remove an employee, the Employer will consider lateral reassignment or reduction in grade of the employee.

J. Promotion Consideration

If an employee is reduced in grade because of unacceptable performance, he or she will be given equal opportunity for promotion to higher-graded positions under the same circumstances as any other employee.

SECTION 5 CONSTRUCTIVE PROCEDURES FOR WITHHOLDING WITHIN- GRADE INCREASES

A. Within-Grade Increases

1. Only the latest rating of record may be used as a basis for a WIGI. In order to be eligible to receive a WIGI, the employee's most recent rating of record must have been "Meets Expectations."
2. Delay in determination.
 - a. An acceptable level of competence determination must be delayed under the following circumstances:

- 1) When the employee has not served in the current position under a performance appraisal plan for at least 90 days and the employee has not been given a performance rating in any position within 90 days prior to the end of the rating period; or
 - 2) When an employee is involuntarily reduced in grade because of unacceptable performance and is placed in a position in which he or she is eligible for a WIGI or will become eligible within the next 90 days.
- b. When an acceptable level of competence determination is delayed, the rating period must be extended until the employee has served in the current position under a performance appraisal plan for a minimum of 90 days. At the end of the extended period, a rating of record will be completed which will form the basis for the acceptable level of competence determination.
 - c. If, following the delay, the employee's performance is rated as "Meets Expectations," the WIGI will be granted retroactively to the beginning of the pay period following completion of the required waiting period for advancement to the higher step.
3. Waiver of requirement for determination.
 - a. An acceptable level of competence determination will be waived and the WIGI granted when an employee has not served in any position for a minimum of 90 days during the final 52 weeks of the waiting period for any of the following reasons:
 - 1) Due to absences which are considered to be creditable service in the computation of a waiting period;
 - 2) Due to paid leave;
 - 3) Due to service credit received under the back pay provisions of 5 CFR Part 550;
 - 4) Due to a detail(s) to another agency or Employer for which no rating has been prepared; or
 - 5) Due to insufficient time to demonstrate an acceptable level of competence resulting from authorized activities of official interest to the agency such as serving as a representative of a labor organization under Title 5 USC; or
 - 6) Due to long-term training.
 - b. In such situations, it is assumed that the employee would have met expectations had he/she performed the duties of his/her position for at least 90 days.
 4. Employees paid under the Federal Wage System schedule who have a performance rating of "Meets Expectations" are entitled to automatic advancement to the next higher step within their current grade in accordance with 5 USC 5343(e)(2) and 5 CFR 532.417.

SECTION 6 GRIEVANCES AND APPEALS

A. Scope

Any dispute arising out of matters covered under this Article may be appealed through the negotiated grievance procedure, except that notices of proposed action are not grievable.

B. Grievability

Adverse actions based on performance, including removals and reduction in grade or pay, may be raised *either* under a statutory procedure *or* the negotiated grievance procedure, but not both.

C. Initiating a Grievance

All grievances concerning actions covered in this Article will be initiated at Step 3 of the negotiated grievance procedure.

ARTICLE 23 ADVERSE AND DISCIPLINARY ACTIONS

SECTION 1 COVERAGE

This Article covers the following types of actions:

- A. Disciplinary actions, including oral admonishments, letters of reprimand, and suspensions of 14 calendar days or less.
- B. Disciplinary adverse actions, including suspensions of more than 14 calendar days, reductions in grade or pay based on unacceptable conduct, or removals based on unacceptable conduct.
- C. Nondisciplinary adverse actions, including furloughs for 30 calendar days or less due to lack of funds or work; demotions resulting from reclassification action which results in a loss of grade or pay without entitlement to grade retention; demotion or separation because of medical disqualification; reduction in the number of hours of duty for a part-time employee; or other action resulting in removal or loss of grade or pay when such action is not requested by the employee and is not based on unacceptable performance or conduct by the employee.

SECTION 2 GENERAL PROVISIONS

A. Governing Principles

The Employer shall not take or fail to take any personnel action in respect to any employee as a reprisal for the exercise of any appeal right granted by law, rule, regulation or the terms of this Agreement. All disciplinary and adverse actions will be processed in accordance with the provisions of 5 C.F.R. 752, DOE Order 3750.1 and this Agreement. Adverse actions may not be taken against an employee except for such causes as will promote the efficiency of the service. Management will provide to the employee, material not otherwise restricted by law or regulation relied upon in support of a disciplinary or adverse action, including the Douglas Factors, Appendix 6, at the time the employee receives a proposal of disciplinary or adverse action.

B. Progressive Discipline

The Parties agree to the concept of progressive discipline designed primarily to correct and improve employee behavior rather than to punish. Progressive discipline may be waived only in cases of gross misconduct in which the efficiency of the service or the safety of employees warrants immediate removal.

C. Constructive Discipline

Constructive discipline is preventive in nature. The objective is development, correction, and rehabilitation. Constructive discipline encourages employee acceptance of responsibility, forestalls the development of situations in which there is no alternative to removal, and encourages maximum use of motivator such as those available under the incentive awards program. Corrective action is taken only when necessary and, then, to correct an adverse situation promptly and with equity.

D. Corrective Action

The corrective action taken should be the minimum necessary to bring about the correction required. In deciding what action may be appropriate, the Employer will give due consideration to the Douglas Factors (See Appendix 6).

SECTION 3 REPRESENTATION RIGHTS

A. Grievance Proceedings

Representation during grievance proceedings is addressed in Article 8, *Official Time for Union Representation*, and Article 11, *Grievance Procedure*.

B. Statutory Appeals

Representation rights during statutory appeals proceedings are governed by the regulations of the appeals authority.

C. Examinations

A Union Representative shall be given the opportunity to be present at any examination of an employee in the bargaining unit by a representative of the Employer in connection with an investigation, if:

1. The employee reasonably believes that the examination may result in disciplinary action against the employee; and
2. The employee requests representation.

D. Adverse Actions and Suspensions of 14 days or Less

The employee is entitled to one Union Representative during the response period specified in any notice of proposed action. The employee, representative, and witnesses, if applicable, shall be given official time to review the material relied on to support the action, to secure affidavits, to prepare an answer, and to testify, to the extent they would otherwise be in a duty status.

E. Disciplinary Meetings

1. Employees are entitled to Union representation, if requested, at meetings with a supervisor or other Management Official in which an adverse or other disciplinary action is planned as the topic of discussion, and during counseling sessions where a supervisor overtly raises the possibility of adverse or disciplinary action as a consequence of continued poor performance or conduct.
2. Prior to conducting a meeting at which an adverse or other disciplinary action is planned as the topic of discussion, the supervisor will provide the employee with at least 4 hours notice so as to enable him/her to obtain a Union Representative.
3. If a discussion of an adverse or disciplinary action is not planned but becomes the topic of

discussion during a meeting, and a representative is requested, the supervisor will make every reasonable effort to arrange for the presence of a Union Representative.

SECTION 4 PROCEDURES

A. Oral Admonishments and Counseling Sessions

1. Counseling and oral admonishment sessions will be conducted privately and in such a manner as to avoid embarrassment of the employee.
2. An oral admonishment is a disciplinary action.
3. The supervisor must clearly identify that an oral admonishment is being given and must provide the employee with a written memo within 5 workdays documenting the oral admonishment.
4. Documents related to employee/supervisor counseling sessions and/or oral reprimands will not be placed in the employee's Official Personnel File. Such documents will be maintained only by the employee's supervisor and may not be used as a basis for subsequent corrective action after 60 days.

B. Advance Notice

Employees will be given advance notice of all proposed suspensions and adverse actions. The following notice periods (given in calendar days) will apply:

1. For all suspensions, the notice period shall be at least 30 days.
2. For adverse actions, except furloughs, the notice period shall be at least 30 days.
3. For furloughs, the notice period shall be at least 30 days, unless the furlough is due to unforeseeable circumstances such as sudden breakdowns in equipment, acts of God, or sudden emergencies requiring immediate curtailment of activities.
4. For adverse actions based on reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed, the notice period shall be 10 days.

C. Crime Provision

For arrests or arraignments for off-duty activities away from the Employer's premises, the Federal crime provision, which allows for a shorter notice of proposed adverse action, will be invoked only when there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be proposed, *and* the proposed action is for such just cause as will promote the efficiency of the service.

D. Right to Respond

In all cases where a notice of proposed action is given to the employee, the employee will be given an opportunity to respond, either orally or in writing, to the reasons for the action prior to a decision to implement the action. The following response periods (given in calendar days) will apply:

1. For all suspensions, the response period shall be 30 days.
2. When the "Crime Provision" is invoked, the response period shall be at least 7 days.
3. For all other actions, the response period shall be 30 days.

E. Response Procedures

The Assistant Managers or Office Heads, ORO, or Directors, OSTI, will serve as the deciding official for all actions under Section 3, paragraph D. The employee may choose to meet only with the deciding official or may choose an informal hearing which may include witnesses. In either case, the employee is entitled to a Union Representative.

1. If the employee chooses an informal hearing, the employee must notify the proposing official within 15 calendar days of receipt of the Notice of Proposed Action. At the time of notification, the employee must identify in writing any witnesses. Management will then have 5 calendar days to notify the Union of any Management witnesses. Any changes to the witness list after this point will be made only by mutual written agreement.
2. Attendees at the informal hearing will include the Union Representative, deciding official, their respective representative, the employee, and the proposing official.
3. Only the Union Representative, the deciding official, their respective representative, and the proposing official may question witnesses.
4. Witnesses will be granted a reasonable amount of time to be interviewed by the Union Representative, to testify at the hearing, and to travel. Witnesses, other than those not co-located with the employee, shall remain in the work area until called to testify.
5. This paragraph will govern response procedures during the tenure of the current ORO Manager. At the time a new Manager is appointed, the Deputy Manager will serve as deciding official while this Article is negotiated and amended, if necessary. Negotiations will begin no later than 30 calendar days, and will conclude no later than 120 calendar days after appointment. If no agreement is reached, the Parties agree that this procedure will remain in effect as is.

F. Decisions

The decision letter will be issued within 15 calendar days of the response meeting and will state which charge or charges, if any, are sustained. If a notice of decision to remove is issued to an employee and the employee is placed on administrative leave, the employee and the representative of his/her choice shall be allowed to return to the employees' office to gather personal belongings. When an employee who has been restricted from building access requires access to gather personal belongings, the Union shall provide notice to the Safeguards and Security Division, ORO, or the Office of Administration and Information Services, OSTI. Such visits shall be in accordance with applicable policies regarding signing in, escorting, and exiting.

SECTION 5 GRIEVANCES AND APPEALS

A. Scope

Any dispute arising out of matters covered under this Article may be appealed through the negotiated grievance procedure, except that notices of proposed action are not grievable.

B. Grievability

Prohibited discriminatory actions and certain specified adverse actions, including removals, suspensions for more than 14 days, grade reductions, pay reductions, and furloughs of 30 days or less, may be raised *either* under a statutory procedure *or* the negotiated grievance procedure, but not both.

C. Initiating a Grievance

All actions covered in this Article which are grieved through the negotiated grievance procedure will be initiated at Step 3, except for oral admonishments, which will be initiated at Step 1, and written reprimands, which will be initiated at Step 2.

D. Delay of Action

If a suspended employee grieves the suspension, the effective date of said suspension will be no earlier than the date the third step grievance decision is rendered.

ARTICLE 24 ACCESS TO PERSONNEL FILES

SECTION 1 ACCESS TO OFFICIAL FILES

Employees may have access at reasonable times to their Official Personnel Folder (OPF) and to their official performance folders which are maintained in the Human Resources Division. In addition, employees may access their OPF through the Electronic Official Personnel Folder (EOPF) system through the website <https://eopf.nbc.gov/doi/>.

SECTION 2 ACCESS TO EVIDENTIARY MATERIAL

- A. Employees who are grieving an action may review all material in their personnel files, including supervisory personnel files, which are being relied on to support the action being grieved.
- B. No such material may be introduced as evidence in an arbitration unless it has been disclosed to the employee or his or her representative, as applicable. Likewise, no documentary material may be introduced into evidence in an arbitration by an employee or employee representative unless it has been disclosed to the Employer.
- C. Disclosure must be made within 10 workdays of the close of Step 3 of the grievance procedure or at the conference step, whichever is later.

SECTION 3 PURGING OF RECORDS

If an action is grieved and the employee's position is upheld, records shall be purged from the employee's files to the extent consistent with the decision and to the extent permitted by regulations.

ARTICLE 25 TRAINING, DEVELOPMENT, AND UPWARD MOBILITY

SECTION 1 GOVERNING PRINCIPLES

A. Management Needs

The overall objective of the Employer's employee development and training policy is to develop an efficient and effective work force, in turn, furthering DOE mission accomplishment. The Employer recognizes that training is a necessary and inseparable function of Management and, therefore, supports maximum flexibility to encourage managers to design and implement training programs in ways which best fit the special needs of agency programs.

B. Employee Development

It is the Employer's policy that all employees are provided with opportunities to improve their knowledge, skills, and abilities in order to enable them to perform effectively tasks assigned and to be assigned. Within the constraints of available resources, opportunity also will be provided to prepare employees for advancement in accordance with specifically defined and approved training needs which arise or are anticipated in carrying out the agency mission.

C. Equal Consideration

All employees will receive fair and equitable consideration for training opportunities without regard to race, color, national origin, age, sex, handicap, or other factors unrelated to the need for training.

D. Payment for Training

Within budgetary constraints, financial assistance for employee training, including payment for any and all costs related to training, will be provided on a just and equitable basis in accordance with governing regulations and this Agreement.

SECTION 2 UPWARD MOBILITY

Subject to time and grade requirements, promotions to the established full performance level of a position will be made based on the quantity of available work at the higher grade level and on the employee's ability to perform that work.

SECTION 3 CAREER DEVELOPMENT

A. Career Development

Counseling employees about career development and training is a supervisory and management responsibility, as a means of encouraging employees' self-development efforts.

B. Individual Development Plan

Individual Development Plans (IDPs) are required for all permanent employees. Supervisors shall initiate and implement IDPs through discussions with individual employees regarding job requirements and the competencies required to successfully meet these requirements. Management will make a good faith effort to provide training or development assignments identified in the IDPs.

C. Components of Plan

The IDP shall provide a mechanism to establish the employee's training, development, and qualification needs based on the:

1. Departmental and organizational goals, objectives, mission, and technical qualification standards for the position (if applicable).
2. Employee's personal and professional development goals including development of specific skills needed to perform effectively in the current position as well as development of skills and knowledge to prepare employees for assignments outside the current job assignment, specifically those projected skills mix needs identified by the organization.

SECTION 4 MODIFIED WORK SCHEDULE

A. Reasons for Denial

Employee requests for modified work schedules to accommodate educational or training programs which equip employees for more effective work within the agency will be denied only when the modification would significantly interfere with the accomplishment of the work required to be performed.

B. Scheduling Restrictions

The Employer may not schedule an employee to work in excess of the daily hours of his/her alternate work schedule when rescheduling the basic workweek for educational purposes.

C. Consistency

In granting modified work schedules, the Employer will apply policies which are consistent throughout the bargaining unit.

D. Self-Study Courses

Supervisors will allow bargaining unit employees participating in agency-directed self-study courses to use duty time to complete course work in accordance with the course recommended study time needed for completion.

SECTION 5 INFORMATION SERVICES

A. Notice to Employees

The Employer will maintain a library of available training and educational resources which will be accessible to all ORO and OSTI employees. Annually, Management will solicit interest (e.g. IDP process or other means) from employees who are within 5 years of retirement and wish to take a retirement planning seminar. If a sufficient number of employees express interest to justify the course as cost effective, the course will be conducted for those employees. Spouses of the employees will be allowed to attend.

B. Training Data

1. The Employer will provide quarterly reports *to* the Union's Chief Steward regarding training data. This report will include: (1) training authorized for bargaining unit employees by Division; (2) title, series, and grade of bargaining unit employees who received such training; and (3) direct costs authorized for such training.
2. The fiscal year budget request for training, when submitted, and the subsequent allocation, when received, for ORO and OSTI will be provided to the Union upon request. Decisions on approval or denial for training requests should be based on consideration of training as a means *to*: (a) assist employees to develop the specific skills needed to perform effectively in their current job assignments; or (b) build skills and knowledge to prepare employees to perform broader or more demanding job assignments in the future. If the employee disagrees with the supervisor's decision to deny training, the employee may contact the Union and the Union will discuss the issue with the Principal Management Contact in an attempt to resolve the disagreement before any grievance is filed. Training that may lead to a job with promotion potential will only be filled through competitive selection.

C. Submission of Training Requests

Training Requests will be submitted to the supervisor no later than 10 work days prior to the registration date of the course or program.

SECTION 6 LABOR RELATIONS TRAINING

A. Time Bank

1. Up to 320 hours of official time for labor management relations training will be authorized by the Employer during each year of this Agreement for officers and shop stewards who have been designated for such training by the Union. Individual officers or shop stewards may not exceed 64 hours of training per person.
2. Any employee elected to the National or State Union conventions will be afforded up to 40 hours of official time in addition to the training bank to attend. Official time will not be authorized for those parts of the meetings which involve activities encompassed by the term "internal business of a labor organization." The Union will provide a copy of the agenda to the Principal Management Contact when it becomes available.

B. Appropriate Use

Authorization will be granted for activities in which the major portion of the training is devoted to labor-management relations. The IDPs of Union Officials (Shop Chair, Chief Steward, Assistant Chief Steward) may reflect the need for training in leadership, labor-management relations, health and safety, EEO, Federal labor law, ADR, and other specialized areas.

C. Procedures

1. As far in advance as possible, the Union will present to the Principal Management Contact an agenda for any proposed training activity.
2. The Principal Management Contact will make a prompt judgment on the appropriateness of the use of official time based on paragraph B above.
3. Scheduling official time for specific trainees will be accomplished in accordance with Article 8, *Official Time for Union Representation*.
4. If Union Officials (Shop Chair, Chief Steward, or Assistant Chief Steward) are directed to take training away from their normal duty station, and representational duties become necessary during the training period, the Union Official and his/her Supervisor will jointly attempt to resolve any conflict. If the Union Official believes that the supervisor is exercising bad faith in the decision to force attendance, a meeting will be held with the Deputy Manager of ORO or the appropriate Director at OSTI in order to resolve the matter.

ARTICLE 26 SAFETY AND HEALTH

SECTION 1 RESPONSIBILITIES

A. Employer

1. The Employer shall make every effort to provide and maintain safe and healthful working conditions. Factors to be considered include, but are not limited to, proper heating, air conditioning, ventilation, air quality, lighting, and water quality.
2. The Employer shall abide by applicable Occupational Safety and Health Administration (OSHA) standards and regulations, Executive Order 12196 and 29 C.F.R., Part 1960, and any other law or regulation concerning occupational safety and health of Federal employees.

B. Employees

Employees are responsible for exercising due caution and complying with recommended safety practices.

C. Union Charge

The Union's participation through its members on the ORO and OSTI Safety Committees in any of the Committees' activities does not diminish the Employer's exclusive responsibility for the Safety and Health Program

SECTION 2 SAFETY COMMITTEE

A. Union Representatives

The Employer agrees to appoint two bargaining unit members to the ORO/OSTI Federal Employee Occupational Safety and Health Committee (Safety Committee) who have been recommended by the Union.

B. Meetings

1. Committee meetings will be held no less than once each quarter. Written minutes of the meeting will be provided to all committee members as well as to the Manager, ORO and the Directors, OSTI. The Employer shall advise the committees of the status of recommended actions within a reasonable period of time.
2. The Employer agrees to approve travel and per diem expenses to safety committee representatives designated by the Union when they attend joint conferences or meetings concerned with occupational safety and health if the training is related to the responsibilities of the committee.

SECTION 3 WORKPLACE INSPECTION

A. Frequency of Inspections

ORO/OSTI facilities where bargaining unit employees work will be inspected at least annually. When the Safety Committee deems appropriate, more frequent inspections will be made in areas where there is an increased risk of accident, injury, or illness.

B. Inspection Schedule

The Safety Committee will be kept informed of workplaces which are covered by this clause and will be given a tentative inspection schedule showing the quarter each particular site will be inspected.

SECTION 4 LIGHT DUTY ASSIGNMENT

An employee recuperating from a non-occupational illness or injury and temporarily unable to perform normal operational duties may voluntarily submit a written request to his/her supervisor for temporary assignment, not to exceed 12 months, to duties commensurate with the disability and the employee's qualifications. The Employer shall give the employee priority for any appropriate assignment available. When the Employer determines that an employee is temporarily unable to perform his/her regular duties due to injury or occupational illness, but may be capable of returning to or remaining in a duty status, the Employer will make a good faith effort to locate a work assignment compatible with the employee's physical condition.

SECTION 5 ACCIDENT INVESTIGATION

A. Extent of Investigation

The extent of accident investigations shall be reflective of the seriousness of the accident.

B. Required Investigations

As determined by Management, job related injuries and illnesses which require medical treatment will be investigated by the appropriate DOE ORO/OSTI organization. The Safety Committee will be provided with the results of any investigation including any recommendations for corrective action. The Committee will have the opportunity to comment on the final report prior to submission to Management.

C. Committee Participation

In case of a lost-workday occupational injury of a bargaining unit employee, a bargaining unit member of the Safety Committee will be invited to participate in the investigation.

D. Investigation Reports

Copies of investigation reports will be provided to all Safety Committee members. Union officials will be provided information regarding any reported work-related injuries or illnesses. Union officials shall also be provided copies of OSHA reports and any reports/studies related to the safety and health of employees.

SECTION 6 INJURY COMPENSATION

The Employer shall provide the Union with the name of a designated liaison official who will provide information to and assist in processing claims filed by an employee in the bargaining unit. Such designation shall be kept current. In the event of a recordable occupational injury or illness, the Employer will promptly inform the employee of options and benefits which may be available under the Federal Employee's Compensation Act. Bargaining unit employees may have a Union Representative present when dealing with matters related to Workers' Compensation. Reference guides pertaining to workers compensation benefits will be maintained in the Human Resources Division for review. Information may also be obtained from the Department of Labor web site.

SECTION 7 IMMINENT HAZARDS

A. Declination of Assignment

An employee has the right to decline to perform his or her assigned task because of a reasonable belief that, under the circumstances, the task poses all imminent risk of death or serious bodily harm coupled with a reasonable belief that there is insufficient time to seek effective redress through normal hazard reporting and abatement procedures established by DOE and ORO directives. The employees will return to duty after such circumstances have been resolved.

B. Objective Evidence

Employees must act in good faith and must have a reasonable belief, supported by objective evidence that an abnormally hazardous condition exists.

SECTION 8 FACILITY SAFETY

A. Construction and Remodeling

When construction, maintenance, or remodeling is scheduled within a facility, the Employer shall ensure that proper safeguards are maintained to prevent injury to bargaining employees. The Employer will follow all applicable OSHA laws, rules, and regulations. These laws, rules, and regulations will also be used when chemicals or pesticides potentially harmful to an employee's health are to be used in or removed from its facilities.

B. Parking Lots

1. The Employer shall provide safe, secure, and appropriately lighted adequate parking at no cost to employees. The Employer agrees to exercise reasonable care in maintaining the security of the parking area at all DOE facilities.
2. The Employer agrees to exercise due care in keeping all DOE-controlled areas where employees park and walk reasonably clear of snow and ice.

C. Fire Alarm Testing

Management will notify employees in advance of fire alarm tests. Routine testing will occur after 6:00 p.m. during the work week. Non-routine testing will occur as needed.

SECTION 9 SAFETY TRAINING

The Safety Committees will consult and advise the Manager, ORO, or the appropriate Director, OSTI, or their designees, on safety training program needs. Committee members will have access to all pertinent program information that will help them in carrying out these responsibilities.

SECTION 10 HEALTH SERVICES

A. Blood Donation

The Parties agree to publicize and support available blood-bank programs. An employee shall be granted up to 4 hours of excused absence for the purpose of donating blood or blood platelets.

B. First Aid and CPR

The Employer shall offer formal locally administered first aid and CPR courses to employees. CPR courses are to be repeated in accordance with the American Red Cross requirement for annual update training. Any employee who volunteers will be afforded the opportunity to participate.

C. Maintenance of Existing Services

1. The Employer agrees to maintain at least the existing health services for bargaining unit employees.
2. *Health Services*, for purposes of this Article, are defined as follows:
 - a. On-site nursing services provided at the FOB and OSTI.
 - b. Periodic physical examinations for all bargaining unit employees.
 - c. The ORO Fitness Program.
 - d. An Employee Assistance Program (EAP) which provides the full range of services required by applicable laws and regulations. Participation in the EAP by employees is voluntary and may not be used as a basis for disciplinary action.
 - e. Adequately stocked first-aid kits. (Guidelines in Appendix 7)
3. The overall level of such services will not be substantially reduced for the life of this Agreement. However, the fitness program will be subject to review by the Manager, ORO, for

issues such as budget and funding considerations.

4. The Parties recognize the right of the medical authorities to make adjustments in health services for medical reasons within the restrictions imposed by (1) above.
5. The Employer will continue to provide access to existing nursing services for off-site employees to the extent that such services are available at the work site.

ARTICLE 27 ADVERSE WORKING/WEATHER CONDITIONS

SECTION 1 GENERAL

A. Closure

1. The Parties recognize that there are certain circumstances which may call for a decision: (1) to release some or all employees after beginning of the workday, (2) to delay opening of the facility on a workday, or (3) not to open the facility on a workday. The responsibility for these decisions remains with the Employer.
2. This applies to events beyond the control of Management or employees, such as hazardous weather or civil disturbances; situations requiring an office to close, such as inadequate heating or air conditioning (in accordance with OSHA regulations) or loss of essential services, e.g., an electrical outage or plumbing problem; and any other comparable situation.
3. Excused absence (administrative leave) with no time limit is authorized for covered situations when Management initiates the dismissal. However, when an employee anticipates these situations and chooses to depart before an administrative dismissal is announced, the employee should request annual leave or LWOP. If the administrative dismissal is approved within an hour of an employee's departure, the leave request may be changed to excused absence. When an office or facility is closed before the start of the work day, employees on scheduled leave will have their leave changed to excused absence.

B. Notification of Closure

If the Employer closes a building or a portion of a building as a result of temperature, ventilation, severe weather conditions, or any emergency situation, the Employer will make reasonable efforts to notify affected employees in a timely fashion through supervisory channels for employees on duty and/or through broadcasts on public media in the Oak Ridge-Knoxville area. The Union's Chief Steward will be promptly notified of the closure, the reasons for, and the timing of the closure.

C. Administrative Leave

When the office is closed, the first day of such closure, or any part thereof, shall be considered administrative leave for employees who are released from duty in accordance with governing regulations.

SECTION 2 INSIDE TEMPERATURE AND VENTILATION

A. Health Problems

If it is shown that compliance with temperature regulations will aggravate a health problem of any employee, as documented by the employee's physician, the Employer will authorize the use of an auxiliary heater or fan by the employee in facilities under DOE control, if such use is consistent with operating requirements. In facilities under General Services Administration (GSA) control,

the Employer will request authorization from GSA to permit the employee to use an auxiliary heater or fan.

B. Malfunctioning Air Conditioning Equipment

1. Malfunctioning cooling, heating, or ventilating equipment, particularly when combined with outside temperatures, could create undesirable indoor working conditions. Prompt attention shall be given to correction of the equipment malfunctions when such equipment is under DOE control. In GSA-controlled space, the Employer will request that GSA promptly attend to the correction of any such malfunctions. The Employer will promptly notify the shop steward for the affected area of any such request when the malfunction impacts any bargaining unit employee.
2. The Employer shall give prompt attention to interim measures for making the workplace more comfortable. In facilities under DOE control, heaters, fans, and other means of ventilation, including the opening of doors and windows, will be provided consistent with safety and security concerns and operating requirements. In facilities under GSA control, the Employer will request GSA's authorization, as necessary, to employ such interim measures. The Employer will promptly notify the shop steward for the affected area of any such request when the malfunction impacts any bargaining unit employee.

C. Conditions Which Prevent Work

1. When individual employees are affected by temperature or ventilation to the extent that they are incapacitated for duty or to the extent that continuance on duty would adversely affect their health, annual leave, sick leave, or LWOP will be granted.
2. When the Employer determines that working conditions are such that employees are actually prevented from working in a particular location, the following procedures will apply:
 - a. Whenever practical, employees shall be temporarily relocated to other areas of the facility or in another facility where working conditions are less severe.
 - b. When relocation is not practical, employees shall be excused from duty without loss of leave or pay, for the first day or any part thereof, in accordance with local directives.

D. Minimizing Heating/Cooling Problems

The Parties recognize that cooling and heating temperature regulations and building design may result in indoor temperatures which are uncomfortable to some employees. The Parties will cooperate in minimizing problems from these factors by discouraging tampering with the heating and cooling units.

SECTION 3 INCLEMENT WEATHER OR EMERGENCY CONDITIONS

A. General

Employees are to presume that ORO and OSTI will be open each regular workday regardless of any weather or other emergency conditions which may develop.

B. Absences

The health and safety of employees is a matter of prime concern to the Employer in such emergency situations. In recognition of this concern, when the office remains open, the following provisions will apply:

1. Liberal Leave Policy

When a general emergency condition exists, but the duty station is not closed, the Employer will adopt a liberal leave policy for employees who are unable to get to work as a result of this emergency condition. Employees may elect annual leave, LWOP, or credit hours, as applicable, without obtaining advance approval or providing detailed justification.

2. Tardiness

When a duty station is open, but a general emergency condition exists which prevents employees from getting to work on time, up to two (2) hours of each employee's tardiness will be approved as an excused absence without charge to leave or pay, provided the tardiness is due to the general emergency condition.

SECTION 4 VEHICLE BREAKDOWN

When a privately owned vehicle is authorized for use on out-of-town business as being administratively advantageous to the Government, and a breakdown occurs which makes the vehicle inoperable, the driver should first contact the appropriate supervisor for instructions. When there is no reasonable alternative, administrative leave will be granted to make emergency repairs to the vehicle.

ARTICLE 28 HOURS OF WORK

SECTION 1 ALTERNATE WORK SCHEDULES

1. Bargaining unit employees GS-14 and below may choose to work a variable week schedule, flextour, or a regular tour of duty.
2. Employees will be able to choose schedules (variable week schedule, flextour, or regular tour) at the beginning of the first pay period in each month. In emergencies or unforeseen situations, exceptions to this policy must be approved by the supervisor.
3. Core hours will remain 9 a.m. to 3 p.m.
4. Employees on a flextour or variable week schedule may establish a tour of duty during the hours between 6 a.m. and 7 p.m. Employees understand the building may not be heated or cooled to their satisfaction outside the hours of 7 a.m. to 6 p.m.
5. Credit hours may be "carried over" to succeeding pay periods.
6. Upon notification to the supervisor, each employee in grades GS-14 and below will be afforded the opportunity to work up to 2 credit hours per day if there is work to be performed. In the event a disagreement arises regarding earning or use of credit hours, the employee may contact the Shop Chair or Chief Steward, who will arrange a meeting with the Principal Management Contact. Supervisors should contact the Principal Management Contact for assistance in resolving disputes. If the issue is not resolved, the grievance procedure will prevail.
7. An employee on a variable week schedule may select any day of the week as their scheduled day off. With supervisory approval, an employee may elect an alternative day off based on personal need. In the event a dispute arises over the scheduled day off for employees in a work unit, the supervisor will attempt to get a mutual agreement from the employees involved to resolve the issue of which employee receives first choice of the day off. If a mutual agreement is not reached, the employee with the greatest Federal service time will be granted his/her first choice for the scheduled day off. Based on work requirements, Management, at its option, may require an employee to work on a scheduled day off. If work requirements necessitate that an employee report to work on a scheduled day off, the supervisor shall offer the employee an alternative day off within the same pay period, compensatory time, or overtime pay. The employee may also elect to receive credit hours.
8. Employees on flextour or variable week schedules may carry over 24 credit hours to succeeding pay periods including the next leave year.
9. Employees on variable week schedule or flextour can change reporting and leaving time each pay period.
10. Terms and conditions of this program will be covered under Article 11, *Grievance Procedure*.

SECTION 2 EARNINGS AND LEAVE ADMINISTRATION

1. Employees who become ill while on annual leave may convert the scheduled annual leave to sick leave up to the amount of accrued sick leave available at the time of the illness. The substitution shall be in accordance with the provisions of 5CFR 630.405.
2. Employees may, on request, use earned compensatory time in lieu of or in conjunction with annual leave or sick leave.
3. Employees shall not be counseled regarding use of sick leave based solely on the number of

sick leave hours used. Use of sick leave based on valid documentation shall not be a factor in determining eligibility for promotion or to support disciplinary action.

4. A medical certificate shall be required for sick leave in excess of 5 consecutive workdays; however, supervisors may require such a certificate for shorter periods if prior notice is given based on documentation of misuse. This notice of requirement of medical certification for shorter periods will be rescinded after 90 days if no documented misuse of sick leave occurs. If no medical certification is provided for an absence in excess of 5 consecutive workdays, the employee may elect to charge the excess days to annual leave, credit time, earned compensatory time, or LWOP; if no election is made, the employee will be recorded as absent without leave.
5. A request by an employee for advanced sick leave will be approved when all of the following conditions are met:
 - a. The requesting employee is eligible to earn sick leave;
 - b. Continued employment is expected upon the employees' return;
 - c. The employee has provided acceptable documentation to support the need for advanced sick leave;
 - d. The request does not exceed the maximum of 30 days for disability, ailment, pregnancy, child birth or surgery or for purposes related to the adoption of a child or the maximum of 40 hours to care for a family member.
6. Upon request an employee will be granted up to 40 hours of sick leave each year to provide for the care of a family member, and may use up to 64 additional hours of sick leave if he or she maintains a balance of at least 80 hours in his/her sick leave account. In addition, an employee may use any combination of annual leave, credit hours or compensatory time, or LWOP for this purpose. An employee will be granted annual leave, credit hours, compensatory time or LWOP for up to five (5) workdays when there has been a death in the employee's immediate family. The concept of the immediate family shall include the following: mother, father, mother-in-law, father-in-law, spouse, brother, sister, sister-in-law, brother-in-law, child, grandchild, grandparent, grandparent-in-law or any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
7. An employee who expects to be absent due to illness for 5 days or less shall inform the supervisor of the approximate date of return to duty, if possible. If he/she does so, daily reports will not be required. An employee will not be required to reveal the nature of illness as a condition for approval.
8. An employee who is ill and is unable to reach his/her supervisor may leave a message on the supervisor's voice mail, with an office manager, or on an office manager's voice mail. Messages left with contractors do not satisfy this provision. In case of an emergency, the supervisor may call an employee who is on sick leave.
9. If the employer issues a notice for employees to schedule anticipated future leave, such notice will have a closing date for leave requests to be submitted. The employer will notify employees in writing within 15 work days after the notice closing date as to whether the leave requests has been approved or denied. If the leave request is denied the reason for denial will be provided to the employee.

SECTION 3 OVERTIME

1. Bargaining unit employees will have overtime scheduled and approved in accordance with the Fair Labor Standards Act and 5 CFR which defines overtime requirements for exempt and non-exempt employees. A policy statement composed by the Union and Management will be issued on a semiannual basis to all ORO and OSTI employees and supervisors.
2. An employee who is called back to work at a time outside the employee's regularly scheduled tour of duty is entitled to a minimum of 2 hours overtime pay or compensatory time.
3. When off duty but on-call status is mandated for a particular work unit, a monthly duty roster will be developed. The Employer will first solicit volunteers. If sufficient qualified volunteers are not available, off duty but on-call duty status will be scheduled in a fair and equitable manner among qualified employees. This requirement does not apply to emergency situations or to the emergency response team. If other teams are established which draw members across work units, the Employer will negotiate regarding off duty but on-call status processes.

SECTION 4 PAY AND BENEFITS

1. The Employer recognizes its obligation to inform employees in the bargaining unit of the benefits for which they may be eligible and to assist them in initiating claims for these benefits. The Employer agrees to take affirmative action to fulfill this obligation through such means as presenting video tape briefings; supplying brochures, pamphlets, and other appropriate information; and assisting employees in filing benefit claims. Bargaining unit employees may have a Union Representative present on request.
2. If an employee does not receive an electronic salary deposit or check on the regular delivery date, the employee may contact the ORO payroll office for assistance in tracing the check or issuance of a new check. Such calls will be given top priority by the payroll office. Recertified salary deposits or checks will be issued as expeditiously as practicable. Employees may request and be granted a salary advance to cover the period of delay.

ARTICLE 29 TRAVEL

SECTION 1 REGULAR TRAVEL

A. Scheduling Travel

1. The Employer will provide advance notice to employees for duty assignments away from his/her duty station, normally 10 calendar days, or as soon as possible if circumstances do not permit a full 10 calendar days notice.
2. The Employer agrees that, to the extent that activities are within the Employer's administrative control, travel will be scheduled so that a bargaining unit employee performs necessary travel away from his/her official duty station during the employee's work schedule. This may mean that the employee will be allowed to leave on travel the work day immediately prior to the date of the scheduled event or return to the duty station on the work day immediately after the scheduled event if the travel cannot be completed within the employee's scheduled work hours.
3. Employees shall be compensated through overtime, compensatory time or credit hours for time spent traveling to a temporary duty station and back to the permanent duty station outside the employee's normal work schedule if the travel involves performance of work while traveling, is incident to travel that involves the performance of work while traveling, or is carried out under dangerous conditions, or results from an event which could not be scheduled or controlled administratively.

B. Travel Expenses

1. Before any employee is required to travel in the performance of official business, he/she may request and be granted an advance of funds. The amount of the advance shall be the maximum allowable by law or regulation. Travel advances shall be made within a reasonable period prior to the beginning of travel. The employee shall not be required to use his/her personal credit card(s).
2. Employees filing a proper voucher for expenses incurred during temporary duty (TDY) and permanent change of station (PCS) travel shall have all such vouchers paid by Management within a reasonable period, normally not to exceed 30 calendar days. If payment is not made in 30 days after filing a proper voucher, the employee shall receive a late fee from DOE. A late payment fee will only be paid when the computed late fee is \$1.00 or more.
3. An employee who is assigned for less than 30 days to training or duty away from the employee's regularly assigned post of duty, and who elects to return home during non-work days, will be reimbursed for actual travel expenses not to exceed the amount reimbursable for the per diem if the employee had remained away from home. *Note: Federal travel regulations mandate specific requirements for cost analysis for trips home when an employee is on TDY more than 30 days.*
4. Employees may make claims for damage to or loss of personal property resulting from incidents related to the performance of their duties while in a duty status. The Office of Chief Counsel maintains forms and instructions for such claims.

SECTION 2 TEMPORARY OR PERMANENT CHANGE OF STATION

Employees involved in a PCS will be authorized excused absence and travel time in accordance with DOE Order 322.1A (Dated 05/08/98). DOE Headquarters will provide individual counseling on change of station benefits, entitlement and options. An employee who is involved in a PCS may be authorized up to 10 calendar days for a house hunting trip including travel time or a maximum of 60 days of temporary quarters. An employee may have up to 3 work days of excused absence to address miscellaneous tasks (i.e., movement of household goods, arranging for utilities services, etc.) associated with PCS.

SECTION 3 TRAVEL CHARGE CARD

Employees can request and be granted an exemption from a travel charge card. The request should be in writing and be submitted to the Oak Ridge Financial Services Center, Travel Section, stating the reason(s) for the exemption. The following reasons are acceptable:

- a. The card has been suspended or canceled;
- b. The traveler does not normally travel at least 2 times a year, not including Union representational travel;
- c. The traveler has a travel charge card application pending approval.

Employees who have an exemption will be able to use the DOE/ORO “corporate” travel charge card to obtain ticketed transportation for official travel. Upon request, the traveler will also be granted an advance of funds which will be the maximum allowable by law or regulation, within a reasonable amount of time.

PART III

DURATION, APPENDICES,
AND SIGNATURES

ARTICLE 30 DURATION

SECTION 1 EFFECTIVE DATES

This Agreement incorporates and/or supersedes, and therefore, invalidates any and all previous Memoranda of Agreement or memoranda of understanding between the Employer and OPEIU, Local 2001. This Agreement becomes effective 30 days following its final approval by both Parties and shall remain in effect for 36 months from its effective date.

A. Training on Contract Provisions

1. Up to 16 hours of official time for Union Officers and Shop stewards will be provided for the purpose of review and orientation of contract provisions. The Parties agree to jointly hold the first review and orientation session within 60 days after the signing of the Agreement. The Parties may jointly agree to schedule additional sessions with officers and shop stewards being granted official time. If additional sessions are desired, and joint agreement is not reached, the Union may conduct review and orientation sessions once every 30 months with official time being granted.
2. If Union Officer and shop steward positions change hands, or if new shop steward positions are created, up to 16 hours of official time will be granted to each new officer and shop steward for review and orientation.
3. Official time under this provision shall not be counted against any other provision of this Agreement.

SECTION 2 REOPENING OF AGREEMENT

A. Notice of Intent

Either party may give written notice to the other, not more than 90 days or less than 60 days prior to the expiration date, of its intention to reopen, amend, or renegotiate this Agreement.

B. Proposals for Change

Specific proposals for change in the Agreement must be included with any notice of intent to reopen.

C. Ground Rules

As soon as practicable after receiving such notice, the Parties shall meet for the purpose of negotiating ground rules.

D. Beginning of Negotiations

Full negotiations shall commence at a mutually agreeable time following a 30 calendar-day study period, which begins on the date the notice to reopen is received.

E. Continuity of Agreement

The present Agreement will remain in full force and effect during the renegotiation and until such time as a new Agreement is approved.

SECTION 3 AUTOMATIC RENEWAL

If neither party serves notice to reopen this Agreement in accordance with Section 2, the Agreement shall be automatically renewed for successive 1 year periods.

APPENDIX 1

This Appendix sets forth the ground rules under which this Agreement was negotiated.

GROUND RULES

Governing the negotiation of an Agreement between the DOE's ORO and OSTI, and the OPEIU, AFL-CIO, under the provisions of the Federal Service Labor-Management Relations Statute, codified as Chapter 71 of Title 5 of the U.S. Code, and known herein as the act or as 5 U.S.C. 71.

1. Description of Unit

The Unit covered by these proceedings is defined by FLRA in Case No.4-RO-77. All professional and nonprofessional employees of the DOE ORO and OSTI, excluding employees represented by other labor organizations in exclusive units, Management Officials, supervisors, and employees described in 5 U.S.C. 7112 (b) (2), (3), (4), (6), and (7).

2. Negotiators

- a. Management's committee will be comprised of five primary members which includes the Chief Negotiator, one participating alternate, and up to three additional alternates:

Members
Redacted

Alternates
Redacted

- b. The Union Committee will be comprised of OPEIU, Local 2001, Business Agent or his designee, no more than five primary members and three alternates:

Members
Redacted

Alternates
Redacted

- c. Alternates may be substituted for primary members without prior notification to the other party's negotiating committee; designation of new members or alternates may be made at any time so long as the basic numbers agreed on remain the same. Alternates may attend negotiation meetings as visitors..
- d. Each party shall select one member of its committee as Spokesperson. An alternate may be appointed to serve in the absence of the Spokesperson. Visitors may speak only when

recognized by their Spokesperson.

- e. Management will present letters from Gerald Boyd and Walt Warnick stating that the Management Committee has full authority to negotiate and reach tentative agreement with the Union. The Union will present a letter stating that the Assistant Spokesperson has full authority to negotiate and reach tentative agreement with Management.

3. Duty Status of Committee Members

- a. DOE employees serving on the Union Negotiating Committee will be granted official time for attending negotiating meetings during the time the employee would otherwise be in duty status. The number of such employees on official time shall not exceed five during any negotiating session.
- b. DOE employees on the Union Negotiating Committee are authorized 12 hours official time for each primary team member to prepare for negotiations.

4. Negotiation Meetings and Facilities

- a. The first negotiation meeting to consider proposals/counter proposals will be held Wednesday, July 13, 2005. Negotiations will be conducted Wednesdays and Thursdays. Wednesdays from 1:00 p.m. to 4:30 p.m. and Thursdays from 9:30 a.m. to 12:30 p.m. If necessary, caucus sessions may be held prior to negotiations on Wednesdays from 9:30 a.m. to 12:00 p.m. and Thursday afternoon following the negotiation sessions. At the end of each session, the Parties will attempt to schedule 1 or 2 days each week or additional weeks, if not already scheduled. Meetings will not occur if the Union team does not have its Spokesperson or Assistant Spokesperson and 3 other members in attendance.
- b. Negotiation meetings will be held in DOE conference rooms. Management will make arrangements for space including a breakout room and will notify the Union team in advance.
- c. Lunch periods shall not normally exceed 1 hour.

If either party intends to combine a caucus with the normal hour lunch period, the other party will be notified prior to the beginning of the lunch. Negotiations will reconvene at a mutually agreed upon time.

- d. Management agrees to provide the following regulatory material:
 - (1) DOE Department-wide and ORO Orders, Announcements; and Bulletins that are pertinent to proposals being discussed.
 - (2) Access to 5 C.F.R. in the Human Resources Division from 7:30 a.m. to 5:00 p.m. and in the OSTI Reference Center from 7:00 a.m. until 6:30 p.m.

- e. Both Parties will keep their own records of the negotiation. No tape recordings will be made by either party of any session or any portion of a session. Laptop computers may be used by either party.
- f. No more than two visitors for each party, including alternates who are attending as visitors, will be permitted during any negotiating session.
- g. Caucus time will be reasonable in length. The party requesting the caucus will inform the other party of the approximate time needed (for the caucus). If the caucusing party needs additional time, the other party will be informed of additional time needed to fully debate and discuss the issue.

5. Negotiated Agreements

When both Parties tentatively agree on the content and wording of any paragraph under negotiation, that paragraph will be initialed by both Spokespersons. Any further discussion of an issue that has been agreed to by the Parties shall require mutual agreement of both Parties to reopen discussion on the issue.

6. Resolving Impasses

- a. Within 10 days of the start of formal negotiations, the Parties will notify the FMCS that negotiations have begun.
 - (1) When it has been determined by either party that 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 Parties shall once more attempt to resolve any existing impasse items.
 - (2) If the impasse cannot be resolved, either party may request FMCS to provide mediation service. The mediator will be the sole judge of the procedure to be followed in attempting to resolve impasses. Mediation will continue until the mediator determines that further sessions are not likely to provide a settlement.
 - (3) If after such mediation efforts an impasse still exists, either party may submit the impasse to the FSIP for consideration. The Parties mutually agree to attempt to make a joint recommendation to the Panel concerning the procedures to be used. The Impasse Panel will determine the procedures to be used in resolving the impasse.
- b. The Parties will strive toward the mutual resolution of all bargaining items without resource to the procedure contained in this Section.
- c. The procedure described above shall not preclude the Parties from agreeing on any issue or from entering into complete agreement at any time without the assistance of the mediator or the Panel.

7. The Following Additional Items Have Been Agreed To:

- a. The Union may use the DOE internal mail system for one additional mailing each month during contract negotiations to communicate on the progress of negotiations with bargaining unit employees. Any additional use of DOE internal mail systems must be approved by a Management Spokesperson. The mailings will abide by the conditions of Article 9 of the contract.
- b. The Union may make arrangements to use DOE conference rooms after regular business hours unless the room will otherwise be needed for official business of the DOE. Arrangements for this room must be made in advance no later than 4 p.m. on the day of use.
- c. The Union may use government word processing equipment and reproduction machines during official time granted for preparation and negotiation of the contract and outside regular business hours.
- d. Union use of official DOE telephones, electronic mail, and fax equipment is permitted for arranging meetings with Management, giving and receiving information to Management concerning labor-management meetings, and relaying times and dates of labor-management meetings to other members of the negotiating committee during the negotiation period. It is expected that these calls will be as brief as possible and will not be unduly disruptive to the employee's work activities or to other employees.
- e. Issues for negotiation will be limited to those contained in the Union and Management proposals submitted on November 5, 2004. Issues will be negotiated in an order agreed on in the first negotiation session:

8. Conclusion of Negotiations and Approval of an Agreement

Upon completion of negotiation, Management will prepare a final draft for review and proofreading by both Parties. The Union and Management negotiation teams will agree on the final draft. Management will forward the signed copy through appropriate channels for Agency Head review and final approval in accordance with the statute.

9. Effective Date: July 13, 2005

The ground rules become effective immediately upon signing. (Original signed by :)

For: Department of Energy

Redacted

For: Office and Professional Employees International Union

Redacted

APPENDIX 2

UNION-MANAGEMENT OVERTIME POLICY STATEMENT

The Fair Labor Standards Act (FLSA) applies to all Federal employees and includes provisions to ensure that a fair and equitable policy was established for payment of overtime. Under these provisions, employees not exempt from FLSA cannot be permitted to perform overtime work without compensation (including compensatory time or credit hours). Permitting employees not exempt from FLSA to work overtime presents a possible liability for the DOE to pay for this overtime even if not officially ordered or approved. Block 35 of SF 50, Notification of Personnel Action, indicates the "exempt" or "non-exempt" status of employees.

Overtime work for employees exempt from FLSA (not covered by the FLSA overtime provisions) is considered any work in excess of an employee's regularly scheduled hours that has been officially ordered or approved in advance. If these additional hours have not been ordered or approved, employees will not receive compensation unless an emergency situation exists. During periods of heavy workload, employees should discuss their work situation with their supervisor and request overtime, compensatory time or credit hours as additional compensation. It is the policy of ORO and OSTI to not require or encourage overtime work without compensation. Supervisors should be aware of the limitations and conditions of approving and paying overtime and exercise judgment during heavy workload situations.

Appendix 3

Please refer to the Integrated Support Center website located at <http://www.oro.doe.gov/HRHandbook/default.shtm>.

APPENDIX 4

Prohibited Personnel Practices

Title 5, USCFR Section 2302

(a)

- (1) For the purpose of this title, "prohibited personnel practice" means any action described in subsection (b).
- (2) For the purpose of this Section -
 - (A) "personnel action" means -
 - (i) an appointment;
 - (ii) a promotion;
 - (iii) an action under chapter 75 of this title or other disciplinary or corrective action;
 - (iv) a detail, transfer, or reassignment;
 - (v) a reinstatement;
 - (vi) a restoration;
 - (vii) a reemployment;
 - (viii) a performance under chapter 43 of this title;
 - (ix) a decision concerning pay, benefits, or awards, concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other action described in this subparagraph;
 - (x) a decision to order psychiatric testing or examination; and
 - (xi) any other significant change in duties, responsibilities, or working conditions; with respect to an employee in, or applicant for, a covered position in an agency, and in the case of an alleged prohibited personnel practice described in subsection (b)(8), an employee or applicant for employment in a government corporation as defined in Section 9101 of title 31;
 - (B) "covered position" means, with respect to any personnel action, any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include any position which is, prior to the personnel action -
 - (i) excepted from the competitive service because of its confidential, policy-determining, policy- making, or

- policy-advocating character; or
 - (ii) excluded from the coverage of this Section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration; and
 - (C) "agency" means an Executive agency and the Government Printing Office, but does not include -
 - (i) a government corporation, except in the case of. an alleged prohibited personnel practice described under subsection (b)(8);
 - (ii) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or
 - (iii) the General Accounting Office.
- (b) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority –
- (1) discriminate for or against any employee or applicant for employment -
 - (A) on the basis of race, color, religion, sex, or national origin, as prohibited under Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);
 - (B) on the basis of age, as prohibited under Sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);
 - (C) on the basis of sex, as prohibited under Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d);
 - (D) on the basis of handicapping condition, as prohibited under Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791); or
 - (E) on the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation;
 - (2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of -
 - (A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or
 - (B) an evaluation of the character, loyalty, or suitability of such individual;
 - (3) coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or

- applicant for employment as a reprisal for the refusal of any person to engage in such political activity;
- (4) deceive or willfully obstruct any person with respect to such person's right to compete for employment;
 - (5) influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment;
 - (6) grant any preference or advantage not authorized by law rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any other person for employment;
 - (7) appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in Section 3110(a)(3) of this title) of such employee if such position is in the agency in which such employee is serving as a public official (as defined in Section 3110(a)(2) of this title) or over which such employee exercises jurisdiction or control as such an official;
 - (8) take or fail to take, or threaten to take or fail to take a personnel action with respect to any employee or applicant for employment because of -
 - (A) any disclosure of information by an employee or applicant for a personnel action with respect to any employee or applicant which the employee or applicant reasonably believes evidences -
 - (i) a violation of any law, rule, or regulation, or
 - (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or
 - (B) any disclosure to the Special Counsel, or to the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures, of information which the employee or applicant reasonably believes evidences -
 - (i) a violation of any law, rule, or regulation, or
 - (ii) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety;
 - (9) take or fail to take, or threaten to take or fail to take, any personnel action against any employee or applicant for employment because of -
 - (A) the exercise of any appeal, complaint, or grievance right

- granted by any law, rule, or regulation;
 - (B) testifying for or otherwise lawfully assisting any individual in the exercise of any right referred to in subparagraph (A);
 - (C) cooperating with or disclosing information to the Inspector General of an agency, or the Special Counsel, in accordance with applicable provisions of law; or
 - (D) for refusing to obey an order that would require an individual to violate a law;
 - (10) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, of the District of Columbia, or of the United States;
 - (11)
 - (A) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement; or
 - (B) knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement; or
 - (12) take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in Section 2301 of this title. This subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress.
- (c) The head of each agency shall be responsible for the prevention of prohibited personnel practices, for the compliance with and enforcement of applicable civil service laws, rules, and regulations, and other aspects of personnel management, and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter II of this title. Any individual to whom the head of an agency delegates authority for personnel management, or for any aspect thereof, shall be similarly responsible within the limits of the delegation.
- (d) This Section shall not be construed to extinguish or lessen any effort to achieve equal employment opportunity through affirmative action or any right or remedy available to any employee or applicant for employment in the civil service under-
 - (1) Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), prohibiting discrimination on the basis of race, color, religion, sex, or national origin;
 - (2) Sections 12 and 15 of the Age Discrimination in Employment Act of 1967

- (3) (29 U.S.C. 631, 633a), prohibiting discrimination on the basis of age; under Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d), prohibiting discrimination on the basis of sex;
 - (4) Section 501 of the Rehabilitation Act of 1973 (29 U.S.C: 791) prohibiting discrimination on the basis of handicapping condition; or
 - (5) the provisions of any law, rule, or regulation prohibiting discrimination on the basis of marital status or political affiliation.
- (e)
- (1) For the purpose of this Section, the term "veterans' preference requirement" means any of the following provisions of law:
 - (A) Sections 2108, 3305(b), 3309, 3310, 3311,3312, 3313,3314,3315,3316, 3317(b), 3318, 3320, 3351, 3352,3363,3501, 3502(b), 3504, and 4303(e) and (with respect to a preference eligible referred to in Section 7511(a)(1)(B) subchapter II of chapter 75 and Section 7701.
 - (B) Sections 943(c)(2) and 1784(c) of title 10.
 - (C) Section 1308(b) of the Alaska National Interest Lands Conversation Act.
 - (D) Section 301(c) of the Foreign Service Act of 1980. (E) Sections 106(f), 7281(e), and 7802(5) of title 38.
 - (F) Section 1005 of title 39.
 - (G) Any other provision of law that the Director of the Office of Personnel Management designates in regulations as being a veterans' preference requirement for the purposes of this subsection.
 - (H) Any regulation prescribed under subsection (b) or (c) of law referred to in any of the preceding subparagraphs.
 - (2) Notwithstanding any other provision of this title, no authority to order corrective action shall be available in connection with a prohibited personnel practice described in subsection (b)(11). Nothing in this paragraph shall be considered to affect any authority under Section 1215 (relating to disciplinary action).

APPENDIX 5

Request for Official Time

I request official time to perform representational duties as required by law, regulation or the negotiated Agreement.

The purpose of the official time is to: _____

The date the representational duties will be performed is: _____

The amount of official time requested is: _____

I will be performing tile representational duties in:

Organization: _____

Room Number: _____

Telephone Number: _____

If I have reason to leave the above location, I will notify you of my new location in a reasonable time.

Employee Signature

Supervisor Signature

Approved _____ Disapproved _____

APPENDIX 6

DISCIPLINARY ACTION CHECKLIST (The Douglas Factors)

Current Merit Systems Protection Board (MSPB) case law requires that certain relevant factors be considered for their aggravating or mitigating impact in determining the appropriateness of a disciplinary penalty. On appeal to the MSPB, agencies have to demonstrate that these factors were considered and the selection of the penalty involved a responsible balancing of all relevant factors. The factors listed below must be considered by the proposing official in selecting an appropriate penalty and should be addressed in the notice of proposed action. The deciding official must also review these factors, along with other relevant information and explain what weight was given to those factors in reaching the final decision.

Answer each of the questions listed below and provide your comments in support of the conclusions reached for all relevant factors.

FACTORS	YES/NO	EXPLANATION AND COMMENTS
---------	--------	-----------------------------

1. The nature and seriousness of the offense and its relation to the employee's duties, position, and responsibilities.

- a. Is this a serious offense?
- b. Is this offense directly related to the employee's duties?
- c. Was the offense intentional?
- d. Was the offense committed maliciously or for gain?
- e. Was the offense frequently repeated?

2. The employee's job level and type of employment, including supervisory or fiduciary role, and prominence of position.

- a. Does the employee's job level or position affect the penalty selected?

3. The employee's past disciplinary record.

- a. Has the employee been disciplined in the past for this same or a similar offense(s)?
- b. Has any other disciplinary action been taken against this employee previously?

- 4. The employee's past work record.**
 - a. Have the employee's length of service and performance record been considered?
 - b. Does the employee get along with coworkers?
 - c. Is the employee dependable?
- 5. Has the offense affected the employee's ability to perform at a satisfactory level?**
- 6. Has the offense affected your confidence in the employee's ability to perform assigned duties?**
- 7. Consistency of penalty.**
 - a. Is the penalty consistent with those imposed upon other employees for the same or similar offenses?
 - b. Is the penalty consistent with the applicable agency table of penalties?
- 8. Notoriety of offense.**
 - a. Is the public aware of the offense?
 - b. Has the offense had a negative impact on the reputation of the agency?
- 9. Clarity of rules violation.**
 - a. Was the employee aware or should he/she been aware that rules/regulations were being violated?
 - b. Had the employee been previously warned about the conduct in question?
- 10. Is there a potential for the employee to be rehabilitated?**
- 11. Are there any mitigating circumstances surrounding the offense that should be considered to reduce the penalty proposed, such as unusual job tensions, personality problems, harassment, provocation by others involved, etc.?**
- 12. Is there alternative action which would effectively deter future misconduct?**

APPENDIX 7

FIRST AID CABINET CONTENTS

Non- Prescription Medications placed in medicine cabinets located on ground, first, and second floors of the Federal Office Building by the Occupational Health Nurse:

Band-Aids
Cotton balls
Medicine cups
Swabs
Iodine-antibiotic cream or liquid
Betadine Swab Sticks (antiseptic for cuts)
Triple Antibiotic Ointment
Cortaid-Hydrocortisone 1% anti-itch cream
Cala-Gen Lotion for itching, poison ivy/oak, insect bites, and minor skin irritations
Camphorphenique Liquid (antiseptic for sore, cuts, burns, and fever blisters)
Peroxide
Rubbing Alcohol and alcohol sponges
Tums/ Fruit Yums (antacid tablets)
Losium Liquid (antacid)
Ka-Pec with Attapulgate (diarrhea medicine)
Diotame -30cc tube (diarrhea, heartburn indigestion, upset stomach and nausea medicine)
EM Formula Liquid (nausea and upset stomach medicine)
Insta-Glucose Tube of glucose for insulin reactions for diabetic patients
Panex 500 mg. tablets = Tylenol 500 mg. tablets
Enpain 325 mg. tablets = Tylenol 325 mg. Tablets
Trisal = buffered aspirin 325 mg. tablets
Enpain 200 mg. tablets = Ibuprofen 200 mg. tablets
Eye Irrigation Solution (used to wash eyes of foreign material)
Chloraseptic Throat Spray or gargle

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